

***United States Court of Appeals  
for the Second Circuit***



**EXHIBITS**





76-4268

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

National Labor Relations Board

DOCKET NO. 3-RC-6810

IN THE MATTER OF:

NIAGARA UNIVERSITY,

Employer

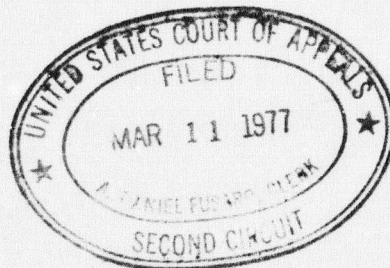
and

NIAGARA UNIVERSITY LAY TEACHERS  
ASSOCIATION,

Petitioner

PLACE: Buffalo, New York

DATE: September 17, 1975



PAGES: 1-138

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393-2320



BEFORE THE NATIONAL LABOR RELATIONS BOARD

Third Region

NIAGARA UNIVERSITY,

Employer

and

NIAGARA UNIVERSITY LAY TEACHERS  
ASSOCIATION,

Petitioner

Case No. 3-RC-6410

NLRB Hearing Room, Ninth Floor,  
Federal Building,  
111 West Huron Street,  
Buffalo, New York,  
Wednesday, September 17, 1975.

The above-entitled matter came on for hearing,  
pursuant to Notice, at 10:25 o'clock a.m.

BEFORE:

CHARLES J. DONNER, Hearing Officer.

APPEARANCES:

JAMES N. SCHMIT, ESQ.,

OHLIN, DAMON, MOREY,  
SAWYER & MOOT,  
1800 Liberty Bank Bldg.,  
Buffalo, New York 14202,  
Appearing on behalf of  
the Petitioner.

JOSEPH L. RANDAZZO, ESQ.,

FLAHERTY, COHEN, GRANDE  
& RANDAZZO,  
1016 Liberty Bank Bldg.,  
Buffalo, New York 14202,  
Appearing on behalf of  
the Employer.



I N D E X

<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Francis Higman	6	7	18	
Thomas J. Lynch	23	44	73	78
Bernard E. Tierney	93	104	122 128	123 128

E X H I B I T S

<u>Board's</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
1(a) through 1(d)		4

Joint Exhibits

1	25	25
2	26	26



P R O C E E D I N G S

3

(10:25 a.m.)

1  
2  
3 HEARING OFFICER DONNER: On the record. This is  
4 a formal hearing in the matter of Niagara University,  
5 case number 3-RC-6410.

6 The Hearing Officer appearing for the National  
7 Labor Relations Board is Charles J. Donner. Let the  
8 record reflect that the hearing is being held in the  
9 Regional Office Hearing Room as opposed to in room  
10 1117 of the Federal Building, and that the hearing is  
11 beginning at approximately 10:25 a.m.

12 All parties have been informed of the procedures  
13 at formal hearings before the Board by service of a  
14 Statement of Standard Procedures with the Notice of  
15 Hearing. I have additional copies of this statement  
16 available for distribution if any of the parties wish  
17 more.

18 Will counsel please state their appearances for  
19 the record. For the Petitioner.

20 MR. SCHMIT: James N. Schmit, of counsel for  
21 Ohlin, Damon, Morey, Sawyer and Moot, 1800 Liberty  
22 Bank Building, Buffalo, New York, 14202.

23 HEARING OFFICER: For the Employer?

24 MR. RANDAZZO: Flaherty, Cohen, Grande & Randazzo,  
25 by Joseph L. Randazzo, of counsel, 1016 Liberty Bank



1 Building, Buffalo, New York, 14202.

2 HEARING OFFICER: Are there any other appearances?  
3 Let the record show no response.

4 (No response)

5 HEARING OFFICER: I now propose to receive in  
6 evidence the formal papers. These have been marked for  
7 identification as Board's Exhibits 1(a) through 1(d)  
8 inclusive, Exhibit 1(d) being an index and description  
9 of the entire exhibit. This exhibit has been shown  
10 to the parties. Is there any objection to the receipt  
11 of Board's Exhibits 1(a) through 1(d) into the record;  
12 Mr. Schmit?

13 MR. SCHMIT: No.

14 HEARING OFFICER: Mr. Randazzo?

15 MR. RANDAZZO: No.

16 HEARING OFFICER: There being no objection, Board's  
17 Exhibits 1(a) through 1(d) are hereby received.

18 (The above-referred to documents,  
19 heretofore marked Board's Exhibits  
20 1(a) through 1(d) for identification,  
were received into evidence.)

21 HEARING OFFICER: Are there any motions to inter-  
22 vene in these proceedings to be submitted to the Hearing  
23 Officer at this time? Let the record show no response.

24 (No response)

25 HEARING OFFICER: Mr. Schmit, is the correct name



1 of the Petitioner that which appears on the petition --

2 MR. SCHMIT: That's correct.

3 HEARING OFFICER: -- in this case being Niagara  
4 University Lay Teachers Association?

5 MR. SCHMIT: That's correct.

6 HEARING OFFICER: Is there any need for an  
7 amendment as to the Petition?

8 MR. SCHMIT: No sir.

9 HEARING OFFICER: Is it possible to stipulate  
10 at this time that the Niagara University Lay Teachers  
11 Association is a labor organization within the meaning  
12 of the National Labor Relations Act as amended; do  
13 you so stipulate, Mr. Randazzo, on behalf of the  
14 Employer?

15 MR. RANDAZZO: No, I won't.

16 HEARING OFFICER: Mr. Schmit, do you have anyone  
17 here to testify as to the purposes and functions of  
18 the labor organization?

19 MR. SCHMIT: I do.

20 HEARING OFFICER: Would you produce your witness?

21 MR. SCHMIT: I call Mr. Higman.

22 Whereupon,

23 FRANCIS HIGMAN

24 was called as a witness by and on behalf of the  
25 Petitioner and, having been first duly sworn, was



1 examined and testified as follows:

2 HEARING OFFICER: Please have a seat. State your  
3 full name for the record.

4 THE WITNESS: Francis Higman. I am Associate  
5 Professor of Mathematics at Niagara University.

6 HEARING OFFICER: Mr. Schmit?

7 DIRECT EXAMINATION

8 Q. (By Mr. Schmit) Mr. Higman, how long have you  
9 been at Niagara University?

10 A. This is starting my 19th year.

11 Q. And you are here as president of an organization  
12 entitled the Niagara University Lay Teachers Associa-  
13 tion; is that correct?

14 A. That's correct.

15 Q. Who are the members of that association?

16 A. The members or potential members are all the lay  
17 teachers of Niagara University.

18 Q. I see. And have you, in connection with this  
19 Petition and this proceeding, met with members of the  
20 lay faculty of Niagara University?

21 A. Yes, we have.

22 Q. You are appearing here as their spokesman?

23 A. I am.

24 Q. Is the Niagara, the purpose of the Niagara  
25 University Lay Teachers Association, to promote the



1 well-being of the members of the lay faculty?

2 A. Yes, it is.

3 Q. And it is their intention to promote well-being  
4 with respect to wages, hours and other conditions and  
5 terms of employment?

6 A. Yes, it is.

7 Q. Will the Petitioner, the Niagara University Lay  
8 Teachers Association, be willing to represent those  
9 employees with the employer?

10 A. Yes.

11 Q. And represent all members of that unit?

12 A. Yes.

13 Q. And bargain with the employer in connection with  
14 wages, hours, terms and conditions of employment?

15 A. Yes.

16 MR. SCHMIT: I have no further.

17 HEARING OFFICER: Mr. Randazzo.

18 MR. RANDAZZO: Yes.

19 CROSS EXAMINATION

20 Q. (By Mr. Randazzo) Is it Mr. Higman?

21 A. Right.

22 Q. When did your organization come into existence?

23 A. We have started the organization during the  
24 summer. I am not sure exactly what date this would be,  
25 but during the summer we had our first, we had an



1 organizational meeting just prior to school starting  
2 in the end of August.

3 Q. Was there a charter or anything of that nature  
4 drafted at the time that it came into being?

5 A. No, we are presently working on the constitution  
6 and charter.

7 Q. I take it that you would not have a constitution  
8 and by-laws at this time?

9 A. Oh, no, we do not.

10 Q. Does your organization have officers, other than  
11 yourself?

12 A. Yes, we have a pro-tem officer to the period of  
13 the constitution being adopted.

14 Q. Are you an officer of the organization?

15 A. Yes, I was elected president.

16 Q. What other officers are there?

17 A. There is a vice president, secretary and treasurer.

18 Q. Now, does the organization have any policy with  
19 respect to those that it admits to membership?

20 A. Not any real policy. We are awaiting the adoption  
21 of the constitution, the writing of the constitution  
22 and adoption of it.

23 Q. Does it in fact admit individuals to membership?

24 A. We intend to. The intended procedure was to  
25 have all lay teachers, full time lay teachers at



1 Niagara University, allowing them to enter the group,  
2 be members of the group.

3 Q. Are there any rules or policies with respect to  
4 qualifications for membership?

5 A. Other than being a member of the full time teaching  
6 faculty at Niagara, no.

7 Q. I take it that there is no document in existence  
8 that would set forth that type of thing?

9 A. I'm sorry; no, there isn't.

10 Q. Is there a procedure for admitting individuals  
11 to membership?

12 A. Can't be; we don't have our constitution set on  
13 it, other than the procedure that full time lay  
14 teachers, is all I can say. We don't have the formal  
15 documentation.

16 Q. Is there any way of knowing whether an individual  
17 would be a member or not?

18 A. Not at the present time. As I say, we have a  
19 group that has met together and the group that elected  
20 myself as president, I guess is the group that signed  
21 the petition.

22 Q. But, okay. Would it be accurate to say that at  
23 the present time you have members, there are members  
24 of this organization?

25 A. We consider membership, at least the ones who



1 signed the petition for forming the group.

2 HEARING OFFICER: The group which you refer to,  
3 sir; that is a group of -- is it made up in part or  
4 in whole of faculty members?

5 A. In whole of faculty members, only full time lay  
6 faculty members of the university.

7 Q. (By Mr. Randazzo) I'm not going to ask you the  
8 identities nor the number of people on the petition.  
9 At the time, however, that you filed your petition,  
10 obviously you talked to somebody from the Regional  
11 Office here of the Labor Board and they advised you  
12 that there had to be a showing of interest, in other  
13 words a designated number of individuals who would be  
14 interested in an election?

15 A. Right.

16 Q. Would it not be possible that an individual  
17 might have signed that petition, not for the purposes  
18 of joining your organization, but rather for the  
19 purposes of having the Labor Board conduct an election?

20 MR. SCHMIT: I am going to object to the line of  
21 questioning. I think the matter of showing of  
22 interest is strictly an administrative procedure,  
23 with a Board officer in charge and not a part of the  
24 hearing.

25 HEARING OFFICER: I sustain the objection. For



1 one thing, I think you're asking for a subjective  
2 intent of the person who would sign something, and  
3 secondly, I will state for the record it has been  
4 administratively determined that the Petitioner has  
5 met the administrative requirements.

6 MR. RANDAZZO: I am not asking the question for  
7 purposes of questioning the showing of interest. The  
8 purpose of my question is that the witness has testi-  
9 fied that he considers those who signed the petition  
10 to be members. I'm suggesting that the purpose of  
11 the petition, as far as the Labor Board is concerned,  
12 is not one of membership, but one of interest in an  
13 election. Somebody could be interested in an election --

14 HEARING OFFICER: Well, now --

15 MR. RANDAZZO: Would you -- excuse me, and let  
16 me finish? I would assume that somebody could be  
17 interested in an election without committing to  
18 membership in an organization. That is the question.

19 MR. SCHMIT: I am not sure of the relevancy of  
20 that particular distinction in connection with the  
21 issues.

22 HEARING OFFICER: I suppose your question would  
23 be answered by the format which was utilized in the  
24 submission of showing of interest, or if the format  
25 indicated that it designated the representative,



1 whether, despite that designation, on its face a  
2 person had some subjective intent to only seek election.  
3 Again, I will sustain Mr. Schmit's objection to the  
4 question.

5 MR. RANDAZZO: Then, if I might, just summarize  
6 the testimony, then, at this point.

7 Q. (By Mr. Randazzo) You have construed those who  
8 signed the petition that was given to the Labor Board,  
9 as members in your organization?

10 A. Yes.

11 MR. SCHMIT: I am going to object to the recon-  
12 struction of the testimony. I believe the witness  
13 indicated he would include among those who would be  
14 members once it was organized formally, all those that  
15 signed the petition, and all members of the lay faculty.  
16 That is what was testified, a group, right here,  
17 representing, and a group who would be the membership  
18 group of the association.

19 HEARING OFFICER: Is he deemed to be membership?

20 MR. RANDAZZO: Mr. Donner, maybe we ought to  
21 clarify the record. Counsel is stating that there are  
22 no members at this time, but the intention is admitting  
23 individuals to membership in the future when consti-  
24 tution and by-laws come into being.

25 MR. SCHMIT: For the same reasons Mr. Higman



1 pledged to the members, formal membership, because  
2 you don't have a finalized organization with the  
3 by-laws of the organization.

4 HEARING OFFICER: We might be getting hung up  
5 in semantics. This association or group, whatever;  
6 you are an officer of that group?

7 THE WITNESS: Right.

8 HEARING OFFICER: You have been a participant  
9 in that group?

10 THE WITNESS: Right.

11 HEARING OFFICER: You have held at least one  
12 meeting?

13 THE WITNESS: Right.

14 HEARING OFFICER: You participate in that meeting?

15 THE WITNESS: Right.

16 HEARING OFFICER: What is the purpose of your  
17 association?

18 THE WITNESS: We hope to represent the lay faculty  
19 of the university.

20 HEARING OFFICER: In regard to the collective  
21 bargaining?

22 THE WITNESS: Right.

23 HEARING OFFICER: And you, as an employee and  
24 other employees participate in the functioning of the  
25 group?



1 THE WITNESS: Right.

2 HEARING OFFICER: Whether it be a formalized  
3 membership or not, at this point?

4 THE WITNESS: Right.

5 MR. RANDAZZO: Okay. I'm not sure what you  
6 clarified. I mean, I think we still have the same  
7 problem.

8 Q (By Mr. Randazzo) Do you, at the present time,  
9 have members or those who are considered to be members  
10 in your organization?

11 A Well, I think I have to clarify what you mean by  
12 "members". If we are talking about a group of people  
13 who banded together to initiate the organization  
14 and have initiated the group of pro-tem officers, and  
15 a committee to construct the constitution and by-laws,  
16 if we take that group, there is a group of members,  
17 then. We have not formalized the group by collecting  
18 dues and things of this point. We are waiting the  
19 statutes and by-laws to be drawn up. So, I guess there  
20 is no real formal membership that we have admitted  
21 people to the formal membership. We considered the  
22 group that banded together with a like cause and those  
23 who signed the petition and those are the ones that  
24 banded together and formed the group. Now, what we  
25 intend to have for membership, to allow any full time



1 lay teacher at Niagara University to join our union.

2 HEARING OFFICER: Are you saying what you have  
3 done thus far, you might consider would be, the  
4 definition of that would constitute membership, in  
5 your opinion?

6 THE WITNESS: Yes.

7 Q. (By Mr. Randazzo) As I understand it, there is  
8 no formal, written or formal policy?

9 A. Yes.

10 Q. And yet you have testified to those types of  
11 individuals that your organization admits to membership.

12 A. Yes.

13 Q. Are there informal rules or unwritten rules of  
14 membership that exist at the present time?

15 A. The only definition for membership that we have,  
16 or potential membership, is full time lay teachers at  
17 Niagara University.

18 MR. SCHMIT: Mr. Hearing Officer, I want to  
19 object to further probing into the matter of membership.  
20 The issue and only issue is whether or not this  
21 petitioner is a labor organization within the meaning  
22 of the law and certainly the record, I think, is more  
23 than sufficient on that particular issue.

24 HEARING OFFICER: I would tend to agree, you know,  
25 with the statement you have just made, sir. I don't



1 know the relevance in whether or not there are any  
2 informal rules or informal requirements, and they  
3 would be informal by the witness' opinion, estimation  
4 only, for what value they would be as evidence.

5 MR. RANDAZZO: I could be mistaken, but as I  
6 recall the definition of labor organization, there is  
7 reference to the admission of employees to membership.

8 HEARING OFFICER: That's correct.

9 MR. RANDAZZO: You could agree with that.

10 HEARING OFFICER: That's correct.

11 MR. RANDAZZO: And it would seem to me that as  
12 long as one of the issues of a labor organization,  
13 one of the areas of inquiry would properly concern  
14 itself with the methods and the means of admitting  
15 people to membership, and the testimony is not being  
16 elicited for purposes of perpetrating any mischief,  
17 if that is what is concerning you.

18 HEARING OFFICER: I am not suggesting that in the  
19 least. What I am saying, I think the record would  
20 reflect thus far the witness' own impression as to  
21 what constitutes membership in the organization at the  
22 present time, whether it is formalized membership or  
23 an informal grouping or membership or what you call it.  
24 This is the witness' own opinion or impression of  
25 what constitutes membership at the present time, the



1 witness being the president of this grouping or  
2 association. To that extent, I think he has addressed  
3 himself to the question of membership.

4 Q (By Mr. Randazzo) Are there any obligations,  
5 whether written or formal or indirect or informal,  
6 which flow from membership in your organization?

7 A. Again, we have no constitution. I don't -- there  
8 are no obligations other than that we are banding  
9 together.

10 Q So, there'd be no financial obligations, either?

11 A. No.

12 Q At this time, there would be no rules of conduct  
13 as a member of your organization?

14 A. No, at this point.

15 Q You have mentioned that you admit lay faculty,  
16 lay full time faculty to membership.

17 A. Full time, yes.

18 Q I think, obviously, that would exclude any of  
19 the religious full time faculty.

20 A. Yes.

21 Q There would be, despite how you would characterize  
22 it, there is a qualification for membership or a rule  
23 with respect to it, concerning lay and religious,  
24 in any event?

25 A. Yes.



1 Q. This would be something that was decided by  
2 the group membership?

3 A. Right, that originally met.

4 Q. Does your organization represent any individuals  
5 who are employees at any other institution?

6 A. No.

7 MR. RANDAZZO: That's all I have.

8 REDIRECT EXAMINATION

9 Q. (By Mr. Schmit) Mr. Higman, if the National Labor  
10 Relations Board were to find as an appropriate unit  
11 a group of faculty that included religious, would  
12 you then also admit those religious to membership?

13 A. Yes.

14 Q. You would?

15 A. Yes.

16 MR. SCHMIT: No further.

17 HEARING OFFICER: Mr. Randazzo?

18 MR. RANDAZZO: Nothing else, sir.

19 HEARING OFFICER: You may step down, sir.

20 (Witness excused.)

21 HEARING OFFICER: Will the company please state  
22 its full and correct name for the record.

23 MR. RANDAZZO: Niagara University.

24 HEARING OFFICER: Is it possible to stipulate  
25 that Niagara University is a non-profit, four year



1 private university, incorporated under the education  
2 laws of the State of New York, and that annually it  
3 derives gross revenues in excess of \$1,000,000,  
4 exclusive of any considerations which, because of  
5 limitations placed by a grantor, would not be available  
6 for use as general operating expenses and further that  
7 annually the employer purchases and receives goods and  
8 materials valued in excess of \$50,000, which goods  
9 and materials were originated from points outside  
10 the State of New York. That the University is an  
11 employer engaged in Interstate Commerce within the  
12 meaning of the National Labor Relations Act as amended.  
13 Do you so stipulate, Mr. Randazzo?

14 MR. RANDAZZO: Yes.

15 HEARING OFFICER: You would stipulate to that,  
16 Mr. Schmit?

17 MR. SCHMIT: Yes.

18 HEARING OFFICER: The stipulation is received.

19 Mr. Randazzo, does the employer decline at this  
20 time to recognize the petitioner as exclusive collective  
21 bargaining agent for employees petitioned for until  
22 such time as certified by the Board?

23 MR. RANDAZZO: That's correct.

24 HEARING OFFICER: Do any of the parties contend  
25 that there is a contract bar to election in this case?



1 Mr. Randazzo?

2 MR. RANDAZZO: No.

3 HEARING OFFICER: Mr. Schmit?

4 MR. SCHMIT: No.

5 HEARING OFFICER: Is there any prior history  
6 of collective bargaining among any of the employees  
7 sought by the petitioner in this proceeding;

8 Mr. Randazzo?

9 MR. RANDAZZO: No.

10 HEARING OFFICER: Mr. Schmit, I'm now going to  
11 read the unit claimed by the petitioner and ask if  
12 you wish to amend at this time.

13 The unit description reads: "Included all full  
14 time lay teaching faculty including department chair-  
15 men employed by the employer at its Campus, located  
16 at Niagara University, New York. Excluded all part  
17 time faculty, all faculty who are members of religious  
18 orders, all ROTC faculty, all administrators, all  
19 other professional employees as defined in the Act,  
20 all guards and supervisors as defined in the Act, and  
21 all other employees."

22 Mr. Schmit, do you wish to amend?

23 MR. SCHMIT: I do not wish to amend the unit at  
24 this time, but reserve my right to possibly do so at  
25 some point in the future along in the proceedings.



1 HEARING OFFICER: What is the position of the  
2 employer with respect to the appropriateness of the  
3 unit sought by the petitioner?

4 MR. RANDAZZO: It is the employer's position that  
5 the only appropriate unit would be one consisting of  
6 all full time lay and religious faculty, excluding  
7 all part time faculty, all ROTC faculty, all adminis-  
8 trators, all other professional employees as defined  
9 in the Act and all office clerical and other employees,  
10 guards and supervisors, also as defined in the Act.

11 HEARING OFFICER: Would it be possible for the  
12 parties to stipulate that the unit for collective  
13 bargaining would be appropriate, the unit which  
14 included but was not necessarily limited to, depending  
15 upon the testimony taken today; which included all  
16 full time lay teaching faculty, including department  
17 chairmen, would you stipulate to the appropriateness  
18 of the unit which contained those two groups?

19 MR. RANDAZZO: I am not sure I understand. If  
20 what you are asking, is there no other unit issues  
21 other than the religious issues, I would be prepared  
22 to say yes to that.

23 HEARING OFFICER: In other words, saying that the  
24 unit should include departmental chairmen, for  
25 example?



1 MR. RANDAZZO: Yes, I would agree that the  
2 unit would include department chairman.

3 HEARING OFFICER: Mr. Schmit, so would you, I  
4 assume?

5 MR. SCHMIT: Yes sir.

6 HEARING OFFICER: Any other issues which the  
7 parties would seek to raise at this time; Mr. Randazzo?

8 MR. RANDAZZO: I have none.

9 HEARING OFFICER: Mr. Schmit?

10 MR. SCHMIT: Well, only to the extent that there  
11 maybe an issue within an issue. Prior to going on  
12 the record, Mr. Randazzo indicated by name those  
13 religious he would feel to be included, and of course  
14 it is our base position that no religious ought to be  
15 included. Therefore, you would include only full time  
16 lay teaching faculty; not part time, administrators  
17 or part time religious faculty.

18 HEARING OFFICER: For further clarification on  
19 the record; in an off the record discussion the  
20 employer indicated that there are 134 full time lay  
21 teaching faculty and 17 full time positions, full time  
22 religious order faculty, who are members of the  
23 Order of Vincentian, as well as four other religious  
24 order faculty, three of whom are members of other  
25 orders and one of whom is a member of the Vincentians,



1 but of another Province. And further in the off the  
2 record discussion the petitioner indicated that of the  
3 17 Vincentian Order faculty, it would raise a question  
4 as to the full time status of six of those individuals.  
5 Off the record.

6 (Discussion off the record.)

7 HEARING OFFICER: We'll take a short recess at  
8 this time.

9 (Recess taken.)

10 HEARING OFFICER: Back on the record. Mr. Randazzo,  
11 do you have someone here to testify on behalf of the  
12 Employer?

13 MR. RANDAZZO: Yes. Doctor Lynch.  
14 Whereupon,

15 THOMAS J. LYNCH  
16 was called as a witness by and on behalf of the Employer  
17 and, having been first duly sworn, was examined and  
18 testified as follows:

19 HEARING OFFICER: Please state your name.

20 THE WITNESS: Thomas J. Lynch.

21 HEARING OFFICER: Mr. Randazzo?

22 DIRECT EXAMINATION

23 Q. (By Mr. Randazzo) Doctor Lynch, what is your  
24 position with the university?

25 A. Academic Vice President.



1 Q. How long have you held that position?

2 A. Approximately ten years in that position.

3 Beginning my 34th year at the university.

4 Q. What are the responsibilities of the Academic  
5 Vice President?

6 A. Entrusted to the supervision of the academic  
7 maintenance of all the divisions and schools of the  
8 university. Charge of the various schools, the curricu-  
9 lum.

10 Q. Now, can you describe the -- does the university  
11 have a Board of Trustees?

12 A. The university has a Board of Trustees made up  
13 of a minimum of six, maximum of 25 members.

14 Q. Are there any requirements with respect to the  
15 religious composition? *not more than*

16 A. I think it is about one-third, at least, religious.

17 Q. The responsibilities of the Board of Trustees  
18 would be what?

19 A. Well, the responsibility would be to oversee  
20 the university, naturally. I think it is one-third,  
21 if I am not mistaken. You can check me out on that.

22 Q. As far as the owner of the buildings and property,  
23 who would that be vested in?

24 A. It is vested in the Board of Trustees. *7*

25 MR. RANDAZZO: Now, I believe that the catalogue --



1 have you reflected on the record, Mr. Hearing Officer,  
2 that the catalogue is in evidence as Joint Exhibit 1?

3 HEARING OFFICER: The parties have jointly  
4 agreed to have marked as Exhibit 1 the Niagara  
5 University Undergraduate Catalogue 1975-1976. Do  
6 either of the parties object to the receipt of the  
7 catalogue in evidence at this point?

8 MR. SCHMIT: No.

9 MR. RANDAZZO: No.

10 HEARING OFFICER: It will be in evidence.

11 (The document above-referred to,  
12 was marked Joint Exhibit #1 for  
13 identification and received in  
evidence.)

14 MR. RANDAZZO: Can we also get to the stipulation  
15 with respect to the Deans?

16 HEARING OFFICER: If you'd like. Why don't we  
17 go off the record.

18 (Discussion off the record.)

19 HEARING OFFICER: Back on the record. The parties  
20 have jointly marked as Joint Exhibit #2, the statute,  
21 a copy of the statutes of the Niagara University, and  
22 is there any objection by the parties to the receipt  
23 of Joint Exhibit 2 in evidence; Mr. Randazzo?

24 MR. RANDAZZO: No, with, of course the comments  
25 that Doctor Lynch intends to make with respect to it.



1 HEARING OFFICER: Do you object to the receipt  
2 in evidence?

3 MR. SCHMIT: I have no objection.

4 HEARING OFFICER: It will be received.

5 (The document above-referred to,  
6 was marked Joint Exhibit #2 for  
7 identification and received in  
8 evidence.)

9 HEARING OFFICER: Doctor Lynch, in an off the  
10 record discussion I believe that you spoke in reference  
11 to drawing up the statutes and the progress involved  
12 in drawing them up and I'd also like to have you  
13 clarify for the record the erroneous pagination that  
14 may exist.

15 THE WITNESS: As far as I can see, that pagination  
16 resulting in skipping from ten to twelve. It seems  
17 like a simple pagination error.

18 HEARING OFFICER: So, it would appear that there  
19 is no missing page eleven.

20 THE WITNESS: There doesn't seem to be. I'll  
21 recheck it again. It looks like a pagination error.  
22 They were done in segments and then put together.

23 HEARING OFFICER: As to the statutes themselves,  
24 what is the status of them at this time?

25 THE WITNESS: Segments of the statutes have  
already been approved by the Board of Trustees, but  
en globo; they have not been approved.



1 HEARING OFFICER: You said parts one through six  
2 have been approved.

3 THE WITNESS: Parts one through six have been  
4 approved.

5 HEARING OFFICER: The documents, the remaining  
6 documents are what?

7 THE WITNESS: This is the essential part of the  
8 statutes. What remains -- let's see, it goes up --  
9 if I can just take a look, what is still left is the  
10 non-instructional part of the university, which has  
11 been finished, and so it would have no bearing here,  
12 I don't think, as such.

13 MR. SCHMIT: The document, Mr. Lynch, contains  
14 the statutes one through six.

15 THE WITNESS: Right, so it involves the faculty,  
16 and has a bearing on this.

17 MR. SCHMIT: And those are the sections which  
18 have been passed?

19 THE WITNESS: Right.

20 HEARING OFFICER: Let's go off the record for a  
21 second.

22 (Discussion off the record.)

23 HEARING OFFICER: Back on the record. Pursuant  
24 to an off the record discussion, would it be possible  
25 for all parties to stipulate that the following indi-



1 individuals are supervisors within the meaning of the Act,  
2 inasmuch as they either have the authority to hire and  
3 fire employees directly or that they have the authority  
4 to effectively recommend such action to one of their  
5 superiors who would also be stipulated to as a  
6 supervisor. Those persons whom the parties would  
7 stipulate as being supervisory would include the  
8 president, the executive vice president, the academic  
9 vice president, the vice president for student affairs,  
10 the vice president for business affairs, the vice  
11 president for development and relations, the treasurer,  
12 the various academic deans of the various colleges  
13 and schools of the university and the director of the  
14 institute of transportation, travel and tourism. Do  
15 you stipulate as to their supervisory status on behalf  
16 of the employer, Mr. Randazzo?

17 MR. RANDAZZO: Yes.

18 HEARING OFFICER: Do you so stipulate, Mr. Schmit,  
19 on behalf of the petitioner?

20 MR. SCHMIT: I do.

21 HEARING OFFICER: The stipulation is received.

22 It should be noted for the record that the list  
23 of these individuals stipulated to was taken from the  
24 statutes which is Joint Exhibit 2.

25 MR. SCHMIT: I might note for the record that



1 while I stipulated to those individually named  
2 persons being supervisors, I don't consider the  
3 stipulation necessarily exclusive, and probably as we  
4 develop testimony with respect to other people, there  
5 may be an issue on that person, or an issue with  
6 respect to someone else.

7 HEARING OFFICER: You concur?

8 MR. RANDAZZO: That's right. Stipulating to those  
9 individuals does not preclude any positions of others  
10 who are not mentioned.

11 HEARING OFFICER: Mr. Randazzo, do you wish to  
12 continue with the witness?

13 MR. RANDAZZO: Yes.

14 Q. (By Mr. Randazzo) Doctor Lynch, with respect to  
15 a comparison, now, of the religious to the lay faculty;  
16 is there any distinction between the two in terms of  
17 the requisite skills for functioning as an instructor  
18 or faculty member?

19 A. No.

20 Q. Do the lay and religious faculty members, and I  
21 am talking about full time, now; ever have occasion to  
22 interchange with one another?

23 A. In cases of illness, sometimes they step in for  
24 one another. This has happened.

25 Q. For a member of the religious faculty or --



1 A. Or a layman could step in, and vice versa.

2 Q. Do the faculty members maintain offices on the  
3 campus?

4 A. Yes, they have offices.

5 Q. Where would the location of the offices be, the  
6 lay as against the religious; would they be in  
7 different areas or in the same area or --

8 A. Well, the offices are in the same area. I mean  
9 some of the religious have their offices in the lay  
10 offices in the departmental.

11 Q. Now, do the lay and religious faculty have  
12 occasion to come into contact with one another during  
13 the course of a day?

14 A. I would say, yes, they have contact. I mean,  
15 either in a social way or in the office, or on campus.

16 Q. Would they normally take their lunch at the same  
17 place?

18 A. Lunch depends on when you are teaching class.  
19 I mean, sometimes some are teaching during the noon  
20 hour.

21 Q. Is there any distinction between the lay and  
22 religious in terms of functioning as a moderator or  
23 other campus function?

24 A. No, selection is the same.

25 Q. In any respect in terms of social functions that



1 take place on the campus?

2 A. No, both serve as moderators.

3 MR. SCHMIT: Excuse me. I didn't hear that.

4 THE WITNESS: Both serve as moderators, lay or  
5 religious.

6 Q. (By Mr. Randazzo) Are there faculty, and/or  
7 departmental meetings that take place?

8 A. There are departmental meetings that take place  
9 throughout the year.

10 Q. Would the religious and lay faculty members  
11 go to the same meetings?

12 A. Yes. Members of the same departments are required  
13 to attend the same meetings.

14 Q. Is there any distinction between the religious  
15 and lay faculty in terms of status or rank?

16 A. No, they are appointed when they receive their  
17 initial appointment to the rank, according to creden-  
18 tials from instructor on up; assistant or associate  
19 or professor, depending on years of service or  
20 depending on academic credentials.

21 Q. Is there any distinction between the lay and  
22 religious faculty members in terms of academic freedom?

23 A. Freedom is the same for both.

24 Q. Any distinction with respect to instructional  
25 load?



1 A. Normal load is usually twelve hours and usually  
2 the same.

3 HEARING OFFICER: Excuse me, sir. That would  
4 constitute full time, as to the employer's definition?

5 THE WITNESS: It could require fifteen hours,  
6 according to our unwritten, so called law, but twelve  
7 hours is usually normal load that we have. But, there  
8 are those who go over twelve.

9 Q. (By Mr. Randazzo) Do the faculty members parti-  
10 cipate in or assist in registration of students?

11 A. Both lay and religious, yes.

12 Q. Are there bulletin boards that are available for  
13 use of both lay and religious faculty members?

14 A. There is bulletin boards in the faculty offices  
15 and also the student center offices.

16 Q. Is there any distinction made in bulletin boards  
17 for lay and religious?

18 A. No, same thing, same bulletin board.

19 Q. Do you maintain any faculty lounges?

20 A. There is a faculty lounge over in the faculty  
21 office area. I guess that can be used by both.

22 Q. That can be used by both?

23 A. Yes.

24 Q. As far as the procedures for text book ordering,  
25 is there any distinction?



1 A. Same procedure.

2 Q. In terms of probationary service of faculty  
3 members, is there any distinction between the lay and  
4 religious?

5 A. Same type of probation.

6 Q. Is there any distinction with respect to the  
7 requirements for outside employment?

8 A. Well, there is very few religious that work  
9 outside the university.

10 Q. Would the requirements be any different, though?

11 A. They would be no different. They would have to  
12 stipulate if they were to do so.

13 Q. In terms of requirement for attendance at univer-  
14 sity functions, is there any distinction between the  
15 lay and religious?

16 A. No; same thing.

17 Q. Any distinction in terms of sebbatical leaves  
18 and leaves of absence?

19 A. No, it is the same.

20 Q. Promotions, is there any distinction in terms of  
21 promotions?

22 A. Same thing.

23 Q. Is there any distinction in terms of discipline  
24 in the classroom that is required?

25 A. No.

Q. Are the requirements with respect to the



1 attendance at class?

2 A. No.

3 Q. Is there any distinction between them as far as  
4 the procedures for absence?

5 A. No.

6 Q. Are there occasions when the president of the  
7 university will communicate in writing to faculty  
8 members?

9 A. Yes. No difference. Same communication.

10 Q. No difference?

11 A. Same communication.

12 Q. Is there any distinction in the grading system  
13 that is utilized by the faculty; religious and lay?

14 A. No.

15 Q. Is secretarial services provided the faculty  
16 members?

17 A. Yes.

18 Q. Is there any distinction between the religious  
19 and lay?

20 A. No.

21 Q. The faculty, I take it, would report to a dean?

22 A. Yes.

23 Q. Of the particular --

24 A. To the particular dean of the college.

25 Q. Right. The religious and lay report to the same



1 dean?

2 A. Right.

3 Q. In terms of some of the benefits that apply to  
4 the faculty; is there any distinction, religious as  
5 against lay for the medical insurance?

6 A. No distinction.

7 Q. Or life insurance?

8 A. No distinction.

9 Q. Salary continuation?

10 A. No.

11 Q. The retirement program?

12 A. No.

13 Q. Is there a credit union service that is available  
14 to the faculty?

15 A. There is a credit union and I presume a priest  
16 could join if he so wished. They are eligible.

17 Q. There is also on the job banking?

18 HEARING OFFICER: Do you know of your own informa-  
19 tion as to whether or not the credit union would be  
20 accessible?

21 THE WITNESS: Yes, I am on the Board of Directors,  
22 but he is also on the Board.

23 HEARING OFFICER: Okay. Fine.

24 Q. (By Mr. Randazzo) On the job banking?

25 A. Yes.



1 Q. Any distinction?

2 A. No.

3 MR. RANDAZZO: May I have just one moment?

4 HEARING OFFICER: Yes.

5 MR. RANDAZZO: That's all I have.

6 HEARING OFFICER: Okay.

7 MR. SCHMIT: Could I take about two minutes?

8 HEARING OFFICER: Sure.

9 (Recess taken.)

10 HEARING OFFICER: Mr. Randazzo, do you have any  
11 other questions?

12 MR. RANDAZZO: Yes, I am going to ask Doctor Lynch  
13 with respect to the six on the full time, part time  
14 and administrative issue that was raised with respect  
15 to certain Vincentian priests.

16 Q. (By Mr. Randazzo) Doctor Lynch, are you familiar  
17 with a Father Bennett?

18 A. Yes. Can I prefix something before we start this?

19 Q. Yes.

20 A. In relation to the men we are going to be talking  
21 about right now, particularly as we go down the line;  
22 these were members of the full time teaching department  
23 faculty with the fact that they hold rank within a  
24 given department, rank of instructor on up to professor,  
25 not according to the hours they teach. But, I will



1 stipulate the hours, too. But according to reports  
2 given by the Health, Education and Welfare Department,  
3 in New York State, anyone who holds a rank within a  
4 department, no matter what the hours, is considered  
5 a full member.

6 HEARING OFFICER: Full member?

7 THE WITNESS: Full time member of the department.  
8 A rank member of the department, not a part time  
9 teacher.

10 Q (By Mr. Randazzo) Father Bennett?

11 A. Father Bennett; right. Father Bennett, I didn't  
12 get the faculty load. Father Bennett teaches philoso-  
13 phy, a six hour load in philosophy. He also is part  
14 time in public relations, is it; I think. Public  
15 relations.

16 HEARING OFFICER: Again, Doctor Lynch; from your  
17 own recollection and records if you have them, and  
18 by hours, credit hours.

19 THE WITNESS: Credit hours. He teaches six hours  
20 of philosophy.

21 HEARING OFFICER: In terms of courses?

22 THE WITNESS: Two courses. Most of our courses  
23 have three hours. So, four courses, twelve hours;  
24 two courses, six hours.

25 HEARING OFFICER: This is for the current semester?



1 THE WITNESS: Current semester.

2 HEARING OFFICER: Okay.

3 Q. (By Mr. Randazzo) Father Bennett has taught in  
4 the past?

5 A. He has taught in the past, anywhere from six  
6 to nine hours. One semester might be nine and the  
7 next six; sometimes just six.

8 Q. What is his position?

9 A. He is a full professor in the Department of  
10 Philosophy and also, as I mentioned before, he does  
11 work in public relations, too.

12 HEARING OFFICER: Does he have any specific title  
13 with public relations?

14 THE WITNESS: Director of public relations.

15 HEARING OFFICER: Director; okay.

16 THE WITNESS: I think it is that.

17 HEARING OFFICER: Okay.

18 Q. (By Mr. Randazzo) Are you familiar with Father  
19 Murphy?

20 A. Father Murphy is a new Vincentian member appointed  
21 to the faculty this year. He is instructor, again,  
22 in the Department of Philosophy. He is a full time  
23 member, twelve hours, four courses, full time teacher  
24 assigned directly to philosophy.

25 Q. Are you familiar with Father Pando?



1 A. Father Pando is a full professor in the Department  
2 of Languages. He teaches classical language; does  
3 nothing else but language and his load varies from  
4 six hours to nine hours. It is in classical languages,  
5 depending on the influx, which is very low at the  
6 present time, but a full fledged member of the depart-  
7 ment of languages.

8 HEARING OFFICER: Do you know his current class-  
9 load?

10 THE WITNESS: That is, I know he has two classes  
11 so far; that is about all I know.

12 HEARING OFFICER: Okay.

13 Q. (By Mr. Randazzo) Are you familiar with Father  
14 Brennan?

15 A. Father Brennan is a member of the Religious  
16 Studies Department, Assistant Professor. He formerly  
17 taught a full load. This year he has only three hours.  
18 He is now chaplain, I think, assistant chaplain.  
19 Father Tierney would know more about that.

20 HEARING OFFICER: We can get his testimony later  
21 on.

22 THE WITNESS: Still a rank member of the depart-  
23 ment, but a reduced load of three hours.

24 HEARING OFFICER: The criteria you are using as  
25 to full time designation, that is for the Department



1 of Health, Education and Welfare?

2 THE WITNESS: He is a rank member of the depart-  
3 ment, but he has a reduced load, three hours.

4 HEARING OFFICER: Thank you.

5 Q. (By Mr. Randazzo) But he has taught in the past?

6 A. But he has taught in the past.

7 Q. He has carried a full load?

8 A. He has carried a full load in the past but this  
9 year he has three hours.

10 Q. Father Harrington?

11 A. Father Harrington has, I think, around, if I am  
12 not mistaken, either three or six; I am not positive,  
13 couldn't tell, I'm not positive at the moment.

14 Q. Does he do anything else?

15 A. Yes, he is Director of Student Activity and he  
16 is an instructor in the Department of Religious Studies.

17 Q. Has he taught in the past?

18 A. Taught in the past; right.

19 Q. In the past has he taught more than three or six  
20 hours?

21 A. He has taught twelve hours in the past.

22 HEARING OFFICER: Could I ask at this point, is it  
23 for this semester he is teaching between three and six  
24 hours?

25 THE WITNESS: This semester.



1 HEARING OFFICER: This semester.

2 THE WITNESS: What he is going to do the next half,  
3 I couldn't tell you; I don't know.

4 HEARING OFFICER: Is the situation where the load  
5 was reduced upon assignment to the Director of Student  
6 Activities?

7 THE WITNESS: Yes, reduced because of that, yes.

8 Q. (By Mr. Randazzo) Father O'Keefe?

9 A. The Department of Modern Language, Assistant  
10 Professor. His load, at the present time, once again,  
11 three hours. He formerly taught six to nine hours;  
12 modern language.

13 Q. Does he do anything else?

14 A. He is Superior of the Vincentian house at the  
15 present.

16 Q. Okay. Now, with respect to the department chair-  
17 men.

A. Right.

18 Q. What types of loads do they carry, instructional?

19 A. Some carry full loads of twelve. There are some  
20 who carry nine. There are some who carry six.

21 HEARING OFFICER: Any reason for that, sir?

22 THE WITNESS: Well, some have reduced loads  
23 because of the work in the department. But, there are  
24 some who have twelve, some have nine and some have  
25



1 six.

2 MR. RANDAZZO: That is all I have.

3 HEARING OFFICER: Before we go on, I'd like to,  
4 maybe if you'd like to get it Doctor Lynch, Joe, is  
5 the other people involved, as to full time status, as  
6 to what their names are, rank is and department which  
7 they teach.

8 MR. RANDAZZO: We have listed off the record,  
9 we listed a number of other Vincentians. In fact I  
10 listed them all.

11 HEARING OFFICER: But, they have not been gotten  
12 on the record.

13 MR. RANDAZZO: Were we off the record when I read  
14 that? Then, it wouldn't be on the record.

15 HEARING OFFICER: And ask the same questions of  
16 Doctor Lynch that we have done with the other people.  
17 I can do it.

18 MR. SCHMIT: Probably do it as a group, if you  
19 want to list the names, but I don't have an issue  
20 with respect to full time.

21 HEARING OFFICER: Off the record.

22 (Discussion off the record.)

23 HEARING OFFICER: Back on the record.

24 MR. RANDAZZO: Mr. Hearing Officer, with respect  
25 to those members of the Vincentian Order who apparently



1 are not in issue with respect to the full time-part  
2 time status, but of course would remain in issue on  
3 the religious issue, they would be as follows. Father  
4 Burke. Father McGlinn. Brother Towey. Father Tumulty.  
5 Father Carven. Father Hydo. Father Casella. Father  
6 McGourty. Father Martin. Father Sleasman, and Father  
7 Levesque. There is one other Vincentian Father, Father  
8 Lachowski, who is of the Vincentian Order but not of  
9 the Province that is concerned with Niagara University.  
10 And the employer construes the particular individual  
11 to fall into the same category with Sister Balthasar,  
12 Sister Gilman and Sister Minella.

13 HEARING OFFICER: Who are also full time faculty.

14 MR. RANDAZZO: That's right.

15 HEARING OFFICER: Member of some religious order  
16 other than the Vincentian Order.

17 MR. RANDAZZO: Non-Vincentian; right.

18 HEARING OFFICER: I think the record should also,  
19 at this point, reflect the six individuals that  
20 Doctor Lynch just testified to were the individuals,  
21 by name, whom the petitioner raised in an off the  
22 record discussion as being those they contend were  
23 part time; so the record is clear on that. Do you  
24 have any other questions of the witness?

25 MR. RANDAZZO: No.



## CROSS EXAMINATION

1  
2 Q. (By Mr. Schmit) Doctor Lynch, your testimony was  
3 to the effect that full time teaching load was twelve  
4 hours; is that correct?

5 A. Twelve hours.

6 Q. With respect to Father O'Keefe, what course does  
7 he instruct?

8 A. In Modern Language, I think it is Spanish or French  
9 course; I'm not positive yet.

10 Q. How many credits is that course?

11 A. Three hours.

12 Q. What are Father O'Keefe's duties other than  
13 instructing?

14 A. Superior of the Vincentian's household.

15 Q. What is the name of that household?

16 A. Meade Hall, Niagara University.

17 Q. He is a superior for the religious community;  
18 is that correct?

19 A. That's correct.

20 Q. Do you know what his duties are as superior of  
21 the religious community?

22 A. I couldn't give you that. I mean, I'd have to  
23 leave that up to someone else.

24 Q. Where are the offices of the Modern Language  
25 Department, faculty offices?



1 A. Same offices that the regular faculty are in.

2 Q. What is that?

3 A. It is in the Alumni Hall.

4 Q. Do you know whether Father O'Keefe has an office  
5 in Alumni Hall?

6 A. I'm not positive he has an office there.

7 Q. Do you know, one way or the other?

8 A. I am not sure that he does.

9 HEARING OFFICER: For purposes, again, of  
10 clarification on the record; Joint Exhibit 1, the  
11 catalogue, at page 196 has a map of the university.  
12 Alumni Hall on here; there is an indication that there  
13 is an Alumni Chapel. Is that the faculty office?

14 THE WITNESS: Right; the faculty office.

15 HEARING OFFICER: That is what you were referring  
16 to?

17 THE WITNESS: Right.

18 HEARING OFFICER: If you want to use that at all  
19 in your testimony.

20 THE WITNESS: Right.

21 Q. (By Mr. Schmit) Do you know whether Father  
22 O'Keefe has an office in Meade Hall?

23 A. He has an office in Meade Hall.

24 Q. Would it be fair to characterize his responsibi-  
25 lities as superior of the religious community, as his



1 principal responsibility at this university?

2 A. At this time, I'd say it would be, yes.

3 Q. How long has he been the superior of the community?

4 A. This would be the second year.

5 HEARING OFFICER: If you know from your own  
6 knowledge or information?

7 THE WITNESS: I'm not positive, because this is  
8 outside my area. I don't take cognizance of how long  
9 --

10 Q. (By Mr. Schmit) To your best knowledge, two to  
11 three years?

12 A. Two to three years.

13 Q. During the period of time he has instructed but  
14 one course?

15 A. This past year I -- last year I think he had two  
16 courses. This year, I think he has one, so far.

17 HEARING OFFICER: Two each semester last year?

18 THE WITNESS: Yes.

19 Q. (By Mr. Schmit) As superior of the community,  
20 if you know, to whom does Father O'Keefe report to or  
21 answer to in connection with his function in the  
22 community at Niagara?

23 A. Reports to the Visitor or Provincial.

24 Q. The Visitor is who?

25 A. Father Nugent.



1 Q. What is his office in the order?

2 MR. RANDAZZO: If I might, I think we are probably  
3 getting into the vow of obedience area, and Father  
4 Tierney is going to be testifying, if there are  
5 questions dealing with this, that you can keep for him.  
6 Probably he'd be the better witness. Otherwise, you  
7 can go ahead and ask him.

8 Q. (By Mr. Schmit) With respect to Father Harring-  
9 ton, what is his position, other than teacher?

10 A. Director of the Student Center. We call it  
11 Student Activity.

12 Q. Director of Student Activity?

13 A. Right, Student Center and Student Activity.

14 Q. Where is he located, as Director of Student  
15 Activities?

16 A. The Student Center.

17 Q. He maintains an office?

18 A. His offices are there.

19 Q. What are his responsibilities as Director of  
20 the Student Center?

21 A. He is in charge of, moderator, usually, of  
22 student government. Also, he is in charge with all  
23 relations with the students within the Center, various  
24 clubs and organizations, controlling the times that  
25 they have different functions and so forth.



1 Q. Would it be fair to characterize his role as  
2 Director of Student Activity as his principal function  
3 at the university now?

4 A. Well, it is hard to say, because he teaches a  
5 half load also in the Religious Studies Department.

6 Q. How many courses does he teach?

7 A. I think he teaches two, this year.

8 Q. Could he teach one, or don't you know for sure?

9 A. I don't know for sure. As I say, I don't have  
10 the Religious Studies input in as yet.

11 Q. In addition to the office at the Student Center,  
12 does he maintain an office at Alumni Hall?

13 A. Used to have one. I don't know if he has one  
14 this year or not.

15 Q. Do you know how many hours a day he spends in  
16 the role of Director of Student Activities?

17 A. I have no knowledge. He is there other than the  
18 class time he is in the room for teaching, which, if  
19 he is in the room teaching a three hour course, he is  
20 in the room three hours.

21 Q. Other than that, as far as you know, he is  
22 directing his attention to his other responsibilities?

23 A. He could also be preparing for class. I don't  
24 know what he does. I don't know. I don't go into  
25 his office and spy on him.



1 HEARING OFFICER: Excuse me. You are stating  
2 a course of three hours, you mean --

3 THE WITNESS: He is in the classroom three hours.

4 HEARING OFFICER: The question was addressed to  
5 a day.

6 THE WITNESS: Oh, one hour per day.

7 HEARING OFFICER: On the day that the course is  
8 given?

9 THE WITNESS: On the day that the course is given;  
10 right.

11 Q. (By Mr. Schmit) As Director of Student Activities,  
12 who does Father Harrington report to?

13 A. He would report to the Academic Vice President --  
14 pardon me. To the Vice President who is his functional  
15 office, who would be, in this case, the Vice President  
16 for Student Personnel, or Student Affairs. This would  
17 be Father Louis Trotta.

18 Q. Is Father Brennan the Chaplain at Niagara  
19 University?

20 A. No, he is not the principal chaplain.

21 Q. There is ranks among the chaplains at Niagara?

22 A. There is not rank, but you have a head chaplain  
23 and you have an assistant.

24 Q. He is not the head chaplain?

25 A. No.



1 Q Would he be assistant chaplain?

2 A He has been assistant chaplain, one of the  
3 chaplains.

4 Q Where do the chaplains maintain their office?

5 A The Student Center.

6 Q Father Brennan has an office there?

7 A Has an office which he shares.

8 Q With the other chaplains?

9 A Right.

10 Q Do you know whether Father Brennan also has an  
11 office in Alumni Hall?

12 A When he had more classes, he was over there.

13 Q But not this year?

14 A I haven't been over this year. I couldn't tell  
15 you.

16 Q How many courses is he teaching now?

17 A I know definitely he has one course, three hour  
18 course.

19 Q That is again, three hours per week?

20 A Three hours a week, one hour a day, three times  
21 a week.

22 Q Do you know how old Father Pando is?

23 MR. RANDAZZO: Objection; relevance.

24 THE WITNESS: I don't know his age.

25 MR. SCHMIT: It is not irrelevant. There is a



1 question with respect to retirement, as to whether  
2 or not he is retired.

3 HEARING OFFICER: Are you referring --

4 MR. RANDAZZO: We ought to ask if he is retired  
5 or about to retire. His age, as far as I'm concerned,  
6 would be immaterial.

7 HEARING OFFICER: Before ruling on the objection;  
8 is there any provision in here with respect to retire-  
9 ment age, in the statute itself? I believe there are.

10 THE WITNESS: There is a paragraph, I think.

11 Q. (By Mr. Schmit) Do you recall which section that  
12 is in, Doctor Lynch?

13 A. No, I don't recall the section.

14 HEARING OFFICER: Just for the record, I think  
15 there is a section on retirement at page 32.

16 MR. SCHMIT: Page 32 of Joint Exhibit #2.

17 HEARING OFFICER: Again, don't answer that  
18 question that was asked as to his age.

19 MR. SCHMIT: Did you have some questions you  
20 wished to ask?

21 HEARING OFFICER: Do you know if Father Pando is  
22 retired under that definition of retirement?

23 THE WITNESS: I don't know how old he is, to be  
24 honest with you.

25 HEARING OFFICER: Okay.



1 Q (By Mr. Schmit) How many courses does Father  
2 Pando teach?

3 A I gave you the answer a few minutes ago. I was  
4 not positive. I think one Latin and one Greek, which  
5 would be two courses or approximately six hours.

6 Q That is in the Classical Language Department?

7 A Classical Language Department; right.

8 Q Any other courses taught in that department?

9 A There is no longer a Classical Language Depart-  
10 ment. I told you a few minutes ago, it is Modern  
11 Language, now called the Language Department, and he  
12 is a member of the department now.

13 Q Do you know whether, if Father Pando has any  
14 responsibilities other than teaching the two courses  
15 you mentioned?

16 A No.

17 Q You don't know or he does not?

18 A I don't know.

19 Q Do you know whether Father Pando has an office  
20 at Alumni Hall?

21 A As far as I know, I don't think so, but he goes  
22 over there occasionally.

23 Q How much is "occasionally"?

24 A I couldn't tell you. I don't follow the man  
25 around.



1 Q. Do you know where else he might have an office?

2 A. In his own, in Meade Hall. He works quite a bit  
3 at the library. I know that. He does a lot of  
4 translating.

5 Q. With respect to Father Murphy, did you testify  
6 that he is teaching a full load?

7 A. He is a new professor, teaches a full load of  
8 twelve hours.

9 Q. He is not an assistant chaplain?

10 A. Murphy?

11 Q. Yes?

12 A. No.

13 Q. You're sure of that?

14 A. I am quite sure of it. The man has a degree in  
15 philosophy from Luvaigue. You are just, probably  
16 confusing with another man.

17 Q. Does he have any responsibilities other than the  
18 teaching, that you are aware of?

19 A. As far as I know, his principal responsibilities  
20 is twelve hours in the Philosophy Department.

21 MR. SCHMIT: May we go off the record?

22 HEARING OFFICER: Off the record.

23 (Discussion off the record.)

24 HEARING OFFICER: Back on the record.

25 MR. SCHMIT: I would, in connection with Father



1 Murphy, I would withdraw contention that he is either  
2 part time or administrative. I, of course, won't  
3 withdraw the contention that he is inappropriate,  
4 under the Vincentian or religious.

5 HEARING OFFICER: All right.

6 Q (By Mr. Schmit) You testified that Father Bennett  
7 is the Director of Public Relations; is that right?

8 A Public Relations.

9 Q Where is his office?

10 A It is in the Resident Dorm, one of the dormitories;  
11 the name escapes me right now.

12 Q Does he also have an office in the administrative  
13 building?

14 A Pardon me?

15 Q Does he also have an office in the administrative  
16 building?

17 A As far as I know, I don't think he has one; the  
18 faculty office.

19 Q That would be the Alumni Hall; correct?

20 A Alumni Hall; correct.

21 HEARING OFFICER: Would this help you?

22 THE WITNESS: He is in O'Shea Hall where his  
23 Public Relations office is.

24 Q (By Mr. Schmit) I see. In O'Shea Hall. Is that  
25 where the -- is that where the Director of Development



1 or Vice President of Development's offices are?

2 A. Yes.

3 Q. And he is co-located with him?

4 A. He is located near him, yes.

5 Q. Are there other offices in the basement of O'Shea  
6 Hall in connection with the Development and Public  
7 Relations function?

8 A. Yes, there is other offices there; right.

9 Q. And do they also have secretarial staffing in  
10 that location?

11 A. Secretarial, in Development, yes.

12 Q. Would that secretarial staff also function for  
13 Father Bennett's role as Director of Public Relations?

14 A. I am not quite sure. I don't know. I've never  
15 been over that much.

16 Q. Whom does Father Bennett report to as Director  
17 of Public Relations?

18 A. Reports to the Vice President of Development and  
19 Relations.

20 Q. Do you know what his duties are as Director of  
21 Public Relations?

22 A. No, I'm only concerned with his duties to our-  
23 selves.

24 Q. That is your personal knowledge?

25 A. That's right.



1 HEARING OFFICER: Duties to yourself?

2 THE WITNESS: Teaching six hours of philosophy  
3 in the Philosophy Department.

4 Q. (By Mr. Schmit) Do you know how long Father  
5 Bennett had been Director of Public Relations?

6 A. Offhand, I can't recall. Should be a good, over  
7 five years; I will put it that way.

8 Q. During that period of time has he taught a  
9 reduced load?

10 A. He has always taught anywhere from six to nine  
11 to twelve hours. I couldn't give you, from memory,  
12 what years he taught twelve or what years he taught  
13 nine or six, but it varies.

14 Q. He is teaching six hours this semester?

15 A. In this semester he has six hours; right.

16 Q. Do you recall how many hours he taught last  
17 semester?

18 A. Last year, I couldn't recall offhand. I think  
19 it was around six, six or nine, one or the other.  
20 Three courses in Ethics.

21 Q. You're not sure?

22 A. I can't store up a hundred and fifty-five  
23 faculty members in my head.

24 HEARING OFFICER: Please, just answer the ques-  
25 tions.



1 THE WITNESS: I am answering your questions.

2 MR. SCHMIT: Thank you.

3 Q. (By Mr. Schmit) Doctor Lynch, if you would  
4 please refer to page 25 of Joint Exhibit 2.

5 A. Yes.

6 Q. That being the first page of part six of the  
7 statutes in captioned "University Faculty"; do you  
8 have that page, Doctor Lynch?

9 A. I have, right here.

10 Q. Referring specifically to paragraph number five,  
11 under sub part A; do you have that?

12 A. Uh huh, I have it.

13 Q. I'd like to quote from that section, part six,  
14 sub part A "The faculty designation is a contractual  
15 agreement between the individual and the university,  
16 which is ordinarily terminated through breach or  
17 expiration of contract, resignation, retirement,  
18 financial exigency on the part of the university or  
19 a mutually acceptable transfer to non-academic duties.  
20 Exceptions to this statute are members of the Congre-  
21 gation of the Mission, Diocesan Clergy, members of  
22 other religious communities, and the U. S. Army  
23 officers assigned to the R.O.T.C. Program, all of whom  
24 enter into a special contractual relationship."  
25 What is the special contractual relationship of religious  
members of the faculty?

USA Reporting



1 A. The only differentiation is the fact they do not  
2 receive a written contract. Everything else remains  
3 the same, salary scale and the only other point, I  
4 think the written contract is the only thing. They  
5 receive an appointment, but no written contract.

6 Q. And the lay members of the faculty do receive a  
7 written contract; is that correct?

8 A. Written contract; that's right.

9 Q. There is no written contract of any kind with  
10 members of religious; is that correct?

11 A. No. *Not so!*

12 HEARING OFFICER: Again, just for clarification  
13 on this exceptions. Diocesan members of the Congre-  
14 gation of Mission, who are they?

15 THE WITNESS: Vincentians.

16 HEARING OFFICER: Vincentians?

17 THE WITNESS: Vincentians, yes.

18 HEARING OFFICER: Just for clarification --

19 MR. SCHMIT: Could we go off the record?

20 HEARING OFFICER: Off the record.

21 (Discussion off the record.)

22 HEARING OFFICER: Back on the record. The  
23 Congregation of the Mission, Doctor Lynch, is it  
24 abbreviated oftentimes by the letters C.M.?

25 THE WITNESS: Right.



1 Q (By Mr. Schmit) Doctor Lynch, how are Vincentian  
2 priests assigned to the faculty?

3 A As a rule, it is done in a very simple, much the  
4 same way as normal faculty members; when we have a  
5 need for certain faculty member in the department, I  
6 put out a call to the president, first of all, that  
7 I would need somebody in philosophy or mathematics  
8 or something, and they ask the superior of the order,  
9 is there anybody available within the order in this  
10 field, and then they send up a name or group of names  
11 with their credentials, and I take a look at the  
12 credentials. If they are acceptable, make a selection,  
13 and if it is possible, we try to get that man  
14 appointed to the faculty at Niagara.

15 Q Would the president go first to the Vincentian  
16 Order to determine whether or not there was someone  
17 who would fit the faculty needs as opposed to going  
18 to the other non-Vincentian section?

19 A No.

20 Q He would not?

21 A No.

22 Q Let's assume then that the person, a member of  
23 the community, Vincentian Community that was inter-  
24 viewed, had the credentials; he would then have to  
25 be assigned by his Provincial, would he not?



1 A. Usually.

2 Q. Well, are there any exceptions to that?

3 A. No, they are usually assigned by the Provincial.

4 Q. In fact, the Vincentian would have to be assigned  
5 by the Provincial to a function, would he not?

6 A. Right. *no!*

7 Q. Be assigned by the Provincial, and he could be  
8 reassigned or withdrawn from that position, could he not?

9 A. Yes.

10 Q. If you were not satisfied with the services of a  
11 Vincentian faculty member, could you terminate him  
12 or would it require reassignment by the Province.

13 A. I could recommend this fact that he did not meet  
14 the standards of the academic end of the department  
15 or of the college which he is in.

16 Q. That would be a recommendation on your part.

17 A. Recommendation.

18 Q. You couldn't terminate him, could you?

19 A. I would make the recommendation. It would be  
20 given serious consideration.

21 Q. But, you could not terminate him? *Board terminate*

22 A. I never had the experience of terminating anyone,  
23 at the moment, that I can think of.

24 HEARING OFFICER: Excuse me, Doctor Lynch. To  
25 whom would you make that recommendation?



1 THE WITNESS: I'd make the recommendation, first  
2 of all, to the Dean of the college, and then from,  
3 after talking it over, with the department from which  
4 he is in; then I would take it on up to the president,  
5 and then it would be laid before, probably the  
6 superior. *No!!!*

7 Q (By Mr. Schmit) The superior of the community?

8 A. Of the community.

9 Q That would be Father O'Keefe?

10 A. Yes, and probably go down from there to the  
11 Provincial. *No!*

12 Q It would be the Provincial that would have the  
13 final decision in that case?

14 A. I'm not sure. I am not a member of the order.  
15 I don't know the procedure.

16 Q He would have to be assigned in the beginning,  
17 and would have the final determination in that case?

18 A. With input, I'd say a recommendation, yes.

19 Q As opposed to lay faculty, you could terminate  
20 a member of lay faculty that didn't satisfy your  
21 expectations, without engaging the process?

22 A. You mean my expectation, my personal expectation,  
23 as such?

24 Q Let's put it more simply. If a member of lay  
25 faculty wasn't doing what you hired him to do?



1 A. Right.

2 Q. He could be terminated without going through the  
3 Vincentian Order; is that correct?

4 A. Naturally, he is not a member of the order.  
5 Why should he go through there?

6 Q. That's right, he could be terminated administra-  
7 tively?

8 A. Right.

9 HEARING OFFICER: Would you make a recommendation  
10 to someone else as to his termination?

11 THE WITNESS: I would make a recommendation to  
12 the Board of Trustees, naturally.

13 Q. (By Mr. Schmit) Isn't it the president who has  
14 the right to hire and fire at the university?

15 A. The president.

16 Q. The president.

17 A. Yes, but he also takes it to the Board of Trus-  
18 tees.

19 Q. In connection with lay faculty?

20 A. In connection with anyone, yes.

21 HEARING OFFICER: Lay or religious?

22 THE WITNESS: The matter, if he is a member of the  
23 faculty, the matter is brought to the Board of Trustees.

24 Q. (By Mr. Schmit) There would be no need, in the  
25 case of lay faculty members, however, to consult with



1 the superior, or anyone in the heirarchy?

2 A. I doubt it. He is not in the order.

3 Q. Doctor Lynch, I'd like to refer you to page 27  
4 of Joint Exhibit #2, if you'd like.

5 A. Yes.

6 Q. More specifically to a sub paragraph E of part  
7 D of the same section 6, relating to university  
8 faculty, and again I beg your indulgence to quote  
9 "Since members of the Vincentian Community, the  
10 Diocesan Clergy and Religious Communities are assigned  
11 to and removed from University service by their reli-  
12 gious superiors with the approval of the president  
13 of the university, they do not acquire tenure and  
14 cannot claim its protection to sustain their title  
15 to continuance as faculty members.". There is a  
16 second sentence in the paragraph, that I am not  
17 choosing to read at this time. I take it that means  
18 what it says, that members of religious orders do not  
19 have tenure.

20 A. Absolutely, as to tenure. They have the privi-  
21 leges of their seniority except that of permanent  
22 appointments to the faculty.

23 Q. That aspect of tenure that would protect job  
24 security, they do not have?

25 A. Right.



1 Q. They could be reassigned by their superiors?

2 A. Right.

3 Q. You mentioned earlier in your testimony, I believe,  
4 that members of the Vincentian Community or religious,  
5 more broadly, receive the same wages or salary as  
6 those of lay faculty; is that correct?

7 A. That's correct.

8 Q. Do members of religious actually receive pay  
9 checks at regular periods or intervals?

10 A. They are not issued individual checks, as far as  
11 I understand.

12 MR. RANDAZZO: Father Tierney is going to testify  
13 to that, methods of payment.

14 HEARING OFFICER: I will instruct the witness to  
15 testify on his own knowledge.

16 THE WITNESS: I have no exact knowledge.

17 HEARING OFFICER: Or again, utilize any records  
18 which you might have.

19 THE WITNESS: All right. I have no records to  
20 give you this knowledge. I just know from general  
21 knowledge.

22 HEARING OFFICER: And the answer?

23 THE WITNESS: I have no general knowledge of this.

24 Q. (By Mr. Schmit) No specific knowledge of this?

25 A. Specific knowledge; right.



1 Q As to how members of religious orders are paid?

2 A No.

3 Q When you testified that they received the same  
4 wages or salaries, then what did you specifically mean?

5 A They get the same amount. In other words, if a  
6 man is appointed an instructor at such a pay rate, say  
7 \$10,500, I mean, that --

8 Q That would be in the budget at that figure?

9 A Right.

10 Q But you don't know whether or not the individual  
11 actually receives it, if he is religious?

12 A Yes, I know he receives it because that is what  
13 is assigned to that individual.

14 Q Are you testifying as supposedly you did before;  
15 that members of the Vincentian Community receive his  
16 pay?

17 A I don't know if he receives pay. He is assigned  
18 to the contractual figure on the pay scale, same pay  
19 scale as lay faculty. There is no double pay scale;  
20 in other words.

21 Q So there is a pay scale and he would be assigned  
22 that figure?

23 A That figure.

24 Q Is that the extent of your specific knowledge in  
25 this area?



1 A. That's right.

2 Q. You testified, I believe, with respect to reli-  
3 gious versus lay faculty, and there is no distinction  
4 between life insurance and medical insurance; is that  
5 correct?

6 A. That's correct.

7 Q. What life insurance program did you have in mind?

8 A. I would defer that question to the treasurer,  
9 because that comes out of his office.

10 Q. Do you have any program in mind when you  
11 answered that question affirmatively?

12 A. It is group type of life insurance policy; there  
13 is an accident insurance policy.

14 Q. What is the group life insurance?

15 HEARING OFFICER: Again, if you know in general  
16 terms.

17 THE WITNESS: The type of insurance policy that  
18 goes with the teacher's annuity and cref type retire-  
19 ment program; group decreasing policy.

20 Q. (By Mr. Schmit) It would be a simple program  
21 that would contain both life insurance and retirement  
22 benefits; is that correct?

23 A. As far as I know.

24 Q. Do you know yourself who is and who is not  
25 covered by that program?



1 A. No, I have no knowledge of who is covered and  
2 who isn't.

3 Q. Then, you don't know whether or not the religious  
4 and lay are the same?

5 A. I don't know individuals who are in it. For  
6 example, I don't know if that man sitting there is  
7 in it or that man is in it, but I do know both the  
8 parties are covered, but I do not know individual  
9 names.

10 Q. If you don't know the individuals, I ask you, how  
11 do you know who is or who isn't covered?

12 MR. RANDAZZO: I am going to object.

13 THE WITNESS: I'll answer it.

14 MR. RANDAZZO: The witness has testified in effect,  
15 that it is a program for both. He can't name the  
16 individual member who is part of it nor can anyone,  
17 for that matter, sitting in this room.

18 HEARING OFFICER: Of your own knowledge, you know  
19 some religious who participate?

20 THE WITNESS: I don't believe; I know.

21 HEARING OFFICER: And some lay who also participate?

22 THE WITNESS: Yes.

23 HEARING OFFICER: Participation in the same plan?

24 THE WITNESS: I don't know any of these men who  
25 are on it nor do they know that I am on it.



1 HEARING OFFICER: I will sustain the objection.

2 Q. (By Mr. Schmit) Do you know whether the plan  
3 is contributory or non-contributory?

4 A. It is non-contributory.

5 Q. And how about, is that true of both life insurance  
6 and retirement benefits?

7 A. The retirement is contributory, five and five,  
8 five percent for the university and five percent  
9 from the faculty member.

10 Q. Do you know who makes contribution on those  
11 amounts on behalf of the religious who are covered?

12 A. I do not know.

13 Q. I believe you testified that the lay and religious  
14 members of the faculty were covered by the same  
15 medical insurance program. What is that program or  
16 plan?

17 A. Well, there is a major medical plan.

18 Q. Do you know the carrier?

19 A. It is Phoenix, I think Phoenix Mutual.

20 Q. And there is an underlying or basic plan?

21 A. I don't understand what you mean.

22 Q. You mentioned major medical. Is there also some  
23 underlying?

24 A. There is 46-47, Blue Cross, Blue Shield.

25 Q. Any other plans that you are aware of?



1 A. There is also a faculty group which pays an  
2 additional amount that covers 50-51, if you want.  
3 But, the university covers the 46-47.

4 Q. Do you know whether any religious are partici-  
5 pating in that faculty group plan, 50-51?

6 A. I do not know.

7 Q. Do you know that they are not participating?

8 A. I do not.

9 Q. What was the credit union that you referred to  
10 in your testimony, Doctor Lynch?

11 A. Ordinary credit union, university credit union.

12 Q. Do you know whether any religious are a member  
13 of that union?

14 A. I do not know, offhand. I don't know the accounts,  
15 who has it.

16 Q. You mentioned on the job banking program; what  
17 is that?

18 A. I have no knowledge of that. That is outside  
19 of my area. I just know that it exists.

20 Q. Did you not say that the people, religious and  
21 lay, both participate?

22 A. I said it is open to both religious and lay.  
23 I do not know the participants. My area is academic,  
24 not financial.

25 Q. You do know, however, it is open to both?



1 A. Yes.

2 Q. You don't know whether any religious actually  
3 take advantage of it?

4 A. No, I don't.

5 Q. Which groups of faculty have their offices in the  
6 Alumni Hall, Doctor Lynch?

7 A. Well, I could say those that don't are science,  
8 science faculty do not reside there, nor the nursing  
9 group.

10 Q. Most of the others?

11 A. Most of them are over at the other ones.

12 Q. Do you know how many Vincentians who are men-  
13 tioned by name are members of the faculty other than  
14 the science and nursing?

15 HEARING OFFICER: Are you talking now about the  
16 17 Vincentians who are members of the Privince or  
17 just talking about full time and part time, in your  
18 question? You're talking all the religious in issue?

19 MR. SCHMIT: Seventeen.

20 HEARING OFFICER: Who are members of the Vincen-  
21 tian Order.

22 Q. (By Mr. Schmit) That's correct.

23 A. There are none from nursing; there are none in  
24 from science, in that group that you listed. I'd say  
25 practically all of them are from Arts and Sciences.



1 Q Faculty groups that have their offices in  
2 Alumni?

3 A Right.

4 Q Do you know how many of the group of 17 have their  
5 offices in Alumni?

6 A I don't know this year. I don't have it on the  
7 charts. I don't know who is in it. It was sent to  
8 me, usually, charts of seating.

9 Q Do you know if some of those individuals have  
10 their offices in Meade Hall?

11 A I do not know.

12 Q You don't know where the others -- where does  
13 the Vincentian Community take its meals?

14 A Meade Hall. You are talking about what time?  
15 Some priests may choose to eat at the Student Center,  
16 if they care to come over. I don't know if they eat  
17 at the faculty dining.

18 Q You don't know if they eat at the faculty?

19 A But, I know they do come in the Student Center  
20 where I eat occasionally.

21 Q You do know that they have meals in Meade  
22 Community House, Meade Hall?

23 A Yes, certainly. That is where they live.

24 HEARING OFFICER: All of them, the Vincentians  
25 who are involved in question here all reside in Meade



1 Hall, the seventeen?

2 THE WITNESS: No, not all. I don't know the  
3 disposition. There may be a few who live in the  
4 dorms, though.

5 Q. (By Mr. Schmit) Does Father Slattery live in  
6 Meade?

7 HEARING OFFICER: Father Slattery?

8 THE WITNESS: President of the university. Yes.

9 Q. (By Mr. Schmit) Do you personally know who owns  
10 the real property on which the university is situated?

11 A. I only know the legal terminology of who owns it,  
12 and I presume that is the way it is done. Owned  
13 originally, supposed to be owned by the people of  
14 New York State, and entrusted to the Board of Trustees.  
15 That is all I know.

16 Q. What is the basis of that knowledge?

17 A. The basis of that; New York State Education Law.

18 HEARING OFFICER: The basis of your knowledge?

19 THE WITNESS: Not my knowledge. Discussions  
20 of others at the university. For all I know --

21 Q. (By Mr. Schmit) That is what you're answering,  
22 the basis; did you ever see the deed to the premises?

23 A. No, I have no need to see the deed.

24 Q. Any leases in connection with it?

25 A. No sir.



1 Q. Do you know who initially acquired it?

2 A. No sir.

3 Q. Do you know in fact it was ever transferred to  
4 the Board of Trustees?

5 A. No sir.

6 MR. SCHMIT: I have no further questions.

7 HEARING OFFICER: Mr. Randazzo?

8 MR. RANDAZZO: Yes.

9 REDIRECT EXAMINATION

10 Q. (By Mr. Randazzo) Doctor Lynch, with respect  
11 to the clergy who are not members of the Vincentian  
12 Order; do you know whether or not any of them signed  
13 contracts?

14 A. Clergy; not members of Vincentian Orders?

15 Q. Right.

16 A. Yes, they are assigned the same type of contract  
17 as the lay faculty, if he gets -- let's go off the  
18 record?

19 Q. Do you know whether Father Lachowski signed a  
20 contract?

21 A. Just signed one last week, yes.

22 Q. In terms of the Vincentian Fathers who are on the  
23 faculty, the full time Vincentian priests; you have  
24 testified that they do not sign a written contract?

25 A. Right.



1 Q. Is there any other procedure that is used with  
2 respect to them?

3 A. Well, it is a --

4 Q. In terms of their responsibilities and obligations?

5 A. How it is done, you mean?

6 Q. Yes.

7 A. Well, I described it to you. They are sent here,  
8 naturally, after they are chosen and they report to  
9 myself, the academic officer, and the assignment is  
10 given to them from the department, whatever department  
11 they are in, or it is given through the mail to them.  
12 During the summer, for example, I have an example this  
13 summer, a man in English, a letter was sent to him  
14 and a schedule was sent to him and he reported to me  
15 when he came.

16 Q. Is there any verbal discussion of the responsibi-  
17 lities?

18 A. Oh, yes. Through my office, the academic end,  
19 there is verbal discussion of what they have to do;  
20 the same type of discussion that lay faculty member  
21 who is newly hired receives when he comes in to my  
22 office or in to a Dean's office.

23 Q. In terms of the candidate for employment as a  
24 faculty member?

25 A. Yes.



1 Q I take it that you have lay applicants for  
2 employment; is that correct?

3 A Yes.

4 Q And then you would have religious applicants;  
5 would that be correct?

6 A Yes.

7 Q You have testified that whatever you need to  
8 fill a faculty position, Father Slattery just doesn't  
9 get a religious; that you have other candidates?

10 A No, we have mostly lay applicants that come in.

11 Q Now, the selection process, then, is made -- is  
12 that made by you?

13 A The selection, the final selection?

14 Q The initial selection?

15 A The initial selection?

16 Q Yes?

17 A It is a joint selection through the chairman of  
18 the department and the Dean and myself, and finally  
19 whittles down to the best candidate that is brought  
20 in to me and then decision is made.

21 Q Does it ever happen that of the candidates that  
22 are available, you have to make a choice between one  
23 and the other; you mentioned that you have religious  
24 and lay?

25 A Never had a choice between a religious and lay;



1 is that you mean?

2 Q. No, the candidate would be --

3 A. No, I never had anything like that.

4 Q. Have there ever been occasions when a lay indi-  
5 vidual was selected over a religious candidate for a  
6 particular position?

7 A. Not to my knowledge, that I can remember.

8 Q. In other words, then, the candidates for either  
9 the religious or lay?

10 A. Religious or lay.

11 Q. Now, you testified about the Provincial having  
12 the ability to withdraw a faculty, religious faculty  
13 member. Has this ever happened?

14 A. Never withdrawn, as far as I know, in the course  
15 of a term or in the course of an academic year, that  
16 I can remember. Maybe withdrawn at the end of an  
17 academic year or something like that, for another  
18 assignment, but never during the course of a year,  
19 as far as I can recall.

20 Q. Now, in terms of, you were questioned about  
21 dissatisfaction with faculty members and procedure  
22 that is used. Does this procedure end with the Board  
23 of Trustees?

24 A. What do you mean?

25 Q. You are dissatisfied with someone?



1 A. Yes.

2 Q. So the recommendation starts to be made.

3 Does the process end with the Board of Trustees?

4 A. Taken for finalization to the Board of Trustees.

5 Q. Would the same be true of religious and lay  
6 together; would there be any difference?

7 A. The information is brought to the Board of Trus-  
8 tees.

9 Q. Would it be brought to the Board of Trustees  
10 even for religious faculty?

11 A. I imagine it would be.

12 Q. That there is dissatisfaction with?

13 A. For the information purposes, yes.

14 MR. RANDAZZO: That's all.

15 HEARING OFFICER: Mr. Schmit?

16 MR. SCHMIT: In a minute, Mr. Hearing Officer.

17 HEARING OFFICER: All right.

18 MR. RANDAZZO: Could I just have a few?

19 HEARING OFFICER: Yes, you have another question?

20 CONTINUED REDIRECT EXAMINATION

21 Q. (By Mr. Randazzo) Now, in terms of the assignment,  
22 would the Provincial or the superior have any involve-  
23 ment with the assignment of a religious who is not a  
24 member of the Vincentian Order?

25 MR. SCHMIT: Excuse me. I didn't hear.



(Pending question read back by the reporter.)

Q. (By Mr. Randazzo) Would the Provincial or superior have any involvement in the withdrawal of services of a member of religious who was not of the Vincentian?

A. No.

MR. RANDAZZO: That's all.

RECROSS EXAMINATION

Q. (By Mr. Schmit) Do you know Sister Jean Frances?

A. Sister Jean Frances Gilman?

A. Yes.

Q. What department is she in?

A. Mathematics.

Q. Are you familiar with the circumstances surrounding her hiring?

A. The only thing I know of, that she was recommended as a good teacher in mathematics and the necessary credentials and doctor's degree.

Q. Recommended by whom?

A. I don't know by whom. I just received that, her credentials, that she was good.

Q. Did you receive a recommendation from the superior?

A. From who?

Q. From a superior of yours, that recommendation?



1 A. I'm trying to recall the time. I may have  
2 received it from the president at the time, yes.

3 Q. When she was hired?

4 A. I don't recall the exact time.

5 Q. Approximately how many years ago?

6 A. I can't remember; three years ago.

7 Q. Do you recall whether there was an opening in the  
8 mathematics department? *yes there was!*

9 A. I don't recall.

10 Q. You don't recall?

11 A. No; if there was an opening.

12 Q. Do you recall whether you were seeking someone  
13 for placement in the mathematics department at that  
14 time?

15 A. No, I don't think we were seeking anybody special,  
16 no.

17 Q. Were you not told to find a place for Sister Jean  
18 Frances Gilman?

19 A. I was not.

20 Q. Why did you come to hire her, if you were seeking  
21 anyone?

22 A. I was told to build up the math department.

23 Q. Did you seek anybody else in connection with that  
24 position?

25 A. Not at the time.



1 Q. Didn't interview anyone else?

2 A. No.

3 Q. When was Father Tumulty hired?

4 A. Father Tumulty?

5 Q. Father Tumulty; when was he hired?

6 A. Father Tumulty just came back this September.

7 Q. And what department was he hired in?

8 A. Department of English.

9 Q. Was there a vacancy at the time he was hired?

10 A. There was a vacancy.

11 Q. Did you consider any laymen for that position?

12 A. I considered a few that came in, applications.

13 Q. What was the vacancy?

14 A. Simply in English; Doctor's degree, we wanted.

15 Q. Did you solicit, as you testified before, did  
16 you ask the president for a recommendation from the  
17 Vincentians for someone to fill the position?

18 A. I asked the president, yes.

19 Q. Did you receive names other than Father Tumulty?

20 A. Other Vincentians, you mean?

21 Q. No, Vincentians other than Father Tumulty?

22 A. Yes, I did.

23 Q. At the same time you considered lay people, too?

24 A. There were several lay people that we considered,  
25 yes.



1 Q. These were people whose applications you had on  
2 file?

3 A. On file.

4 Q. They were on file?

5 A. On file, yes.

6 Q. You stated on redirect that in connection with the  
7 possible termination of a member of the Vincentian  
8 Order, you would advise the Board of Trustees for infor-  
9 mation purposes; that correct, was that your testimony?

10 A. Probably, because on any academic reports, I would  
11 probably advise who was terminated or who was let go  
12 or anything like that; it would be an information  
13 report.

14 Q. The Board of Trustees would not terminate a  
15 Vincentian faculty member?

16 A. I do not know. I couldn't tell. I don't know.

17 Q. With respect to non-Vincentian religious, you  
18 testified they signed the same contract as lay faculty?

19 A. Right.

20 Q. Paid the same salaries?

21 A. Yes.

22 Q. Do you happen to know whether they received their  
23 paychecks?

24 A. Yes, I think they do.

25 Q. You think they do?



1 A. Yes.

2 Q. Do you know what they do with them after they  
3 receive them?

4 A. No, I do not know.

5 Q. You don't know?

6 A. No, that is a private matter.

7 Q. Incidentally, are they assigned by their order  
8 to the university?

9 A. I presume they are.

10 Q. How do they come about being hired, a non-Vincen-  
11 tian religious, what would be the procedure for  
12 becoming part of the faculty?

13 A. Much the same way as ordinary faculty. They have  
14 their names in the job market.

15 Q. They would make an application?

16 A. They would make an application, not exactly off  
17 the street, but in the journal and through the mail,  
18 through some organization, for example, an English  
19 organization or whatever subject they are in, or  
20 discipline.

21 Q. In the case of a religious non-Vincentian who  
22 might be hired, would that person have to be assigned  
23 by his or her order?

24 A. You have to have release from the order, permitting  
25 them to teach.



1 Q They cannot acquire tenure; is that correct?

2 A Not absolute tenure.

3 Q In other words, not the job protection aspect?

4 A Not the job protection aspect; that's right.

5 Q Do you happen to know whether --

6 MR. SCHMIT: I think I would reserve that for  
7 the other witness.

8 Q (By Mr. Schmit) You testified on redirect,  
9 at least I believe you did, and correct me if I am  
10 wrong, Doctor Lynch; that you cannot recall having  
11 or ever having had a choice between a religious and  
12 lay applicant for a faculty position. Is that your  
13 testimony?

14 A I can't remember having a choice between any --

15 Q Don't you have on file applications for employment  
16 by laymen?

17 A In our own file in the department. Usually the  
18 department holds the file. Any applications that I  
19 get, I send to the departmental chairmen.

20 Q Aren't the applications by lay individuals  
21 considered when an opening occurs?

22 A Yes, usually.

23 Q Are they considered, where you have been advised  
24 of religious applicants; are they considered in such  
25 a case?



1 A. Yes, but we also consider the religious when we  
2 have the possibility of a person with equal credentials.

3 Q. If a person has equal credentials; who would be  
4 hired, religious or lay?

5 A. Depends on the individual and need and credentials.

6 Q. And if you have these files of applicants, why  
7 would there be no choice as you have testified, between  
8 religious and lay?

9 A. What do you mean; choice?

10 Q. I think your testimony was you don't recall ever  
11 having had a choice or to choose between religious  
12 and lay?

13 A. I don't recall having to make a choice of my own,  
14 between any in hiring.

15 Q. Why would you not make such a choice?

16 A. I didn't have the opportunity to make such a  
17 choice.

18 Q. Who made it?

19 A. There was no choice, because they appointed  
20 any we had recently.

21 Q. They were appointed by whom?

22 A. I told you how we receive these people. When we  
23 have a need within a certain department of the univer-  
24 sity and we think we need a Vincentian on the faculty,  
25 we ask if we could have credentials of anyone available,



1 who might per chance fill that position, if anyone  
2 would be available.

3 Q Then you would choose from the Vincentians whom  
4 you were advised that they were available?

5 A This is ridiculous. If you look at the faculty,  
6 we have 155 people in the faculty, and out of this,  
7 15 Vincentians and the rest are lay people.

8 Q Incidentally, if you have Vincentians available,  
9 do you consider lay applicants?

10 A Yes.

11 Q Then, you do have a choice?

12 A Then, we do have a choice.

13 Q Yes. Then why do you say -- do you recall you  
14 said you never had a choice?

15 A I said I didn't have the opportunity. I said I  
16 don't recall making a choice.

17 Q Who does make the choice?

18 A I said I didn't have a choice. I don't recall  
19 myself making a choice. I may have made a choice,  
20 but I don't recall personally, in the last years, of  
21 making a choice between a lay person and religious  
22 person.

23 Q You just testified, if there is a determination  
24 that we need a Vincentian on the faculty; what did  
25 that refer to?



1 A. I said if we have a Vincentian with credentials  
2 to fill the position.

3 Q. Why did you want a Vincentian, particularly?

4 A. For, in religious studies, you might want a  
5 person, and this is their field.

6 Q. Are there subject areas where you would specifi-  
7 cally request a reference of a list of qualified  
8 Vincentians?

9 A. Not particularly.

10 Q. On what basis would you determine whether or not  
11 you wanted a Vincentian?

12 A. As a rule, half the times we never ask. The  
13 superior or the, shall I call him the Provincial,  
14 will say I have certain men available. Do you have  
15 need of them?

16 Q. Sometimes this is offered in this way and you  
17 consider them?

18 A. And you consider them, if they have what you want,  
19 you may take one of them.

20 Q. Would you take one of them as opposed to a lay  
21 member who has an application on file?

22 A. Not necessarily.

23 MR. SCHMIT: No further questions.

24 MR. RANDAZZO: Nothing else.

25 HEARING OFFICER: Just a few questions.



## EXAMINATION

1  
2 Q. (By the Hearing Officer) Doctor Lynch, that  
3 Board of Trustees, is a minimum of six or a maximum  
4 of 25 individuals?

5 A. I think that is so.

6 Q. Approximately one-third, which would be members  
7 of a religious order?

8 A. I think it is stated in the statutes; I'm not  
9 quite positive.

10 Q. In reference to joint Exhibit 1, just so the  
11 record would reflect, page 175 is the list of the  
12 Board of Trustees.

13 A. Yes.

14 Q. To your knowledge, is that an accurate listing  
15 of people who currently make up the Board?

16 A. There have been several new members appointed.

17 Q. Let me ask you in particular. I believe you  
18 testified earlier that the initials C.M. would  
19 indicate that a person is a member of the Order of  
20 Vincentians?

21 A. Right.

22 Q. And I believe --

23 A. This one is on it.

24 Q. Frank D. O'Connor?

25 A. No, Regan.



1 Q. The Reverend George Regan?

2 A. Replacing Cahill. *Alc*

3 MR. RANDAZZO: Castellani.

4 THE WITNESS: Carmen Castellani.

5 Q. (By the Hearing Officer) Not a member of the  
6 religious order?

7 A. No.

8 Q. Joseph T. Cahill, is he a member of the univer-  
9 sity?

10 A. He is a Vincentian.

11 Q. A member of the teaching faculty?

12 A. No, president of St. John's University.

13 Q. I see. Nothing to do with Niagara University as  
14 such.

15 A. No.

16 Q. The very Reverend John G. Nugent, he is superior  
17 or Provincial of the Vincentian Order?

18 A. Of the Vincentian Order.

19 Q. Just so the reader of the record won't get con-  
20 fused; do you recall of your own knowledge, do you  
21 know if any of the members are members of religious  
22 orders or members of religious groupings other than  
23 Vincentians?

24 A. On the list?

25 Q. Yes?



1 A. No members of any religious order on here, no.

2 Q. Other than Vincentian?

3 A. No.

4 Q. There has been testimony on the record as to the  
5 number of full time lay faculty being around appro-  
6 ximately 134.

7 A. Yes.

8 Q. Are there any of those individuals who currently,  
9 let's say for the semester, who are teaching a course  
10 load of less than twelve hours because of any other  
11 function or duties which they might be called upon to  
12 perform, other than departmental chairmen?

13 A. Don't have them right in my head right now,  
14 but there is a few on there who have reduced loads.

15 Q. Other than departmental chairmen?

16 A. Yes, there is others than departmental chairmen,  
17 yes, nine hours.

18 Q. Any specific individual who, say, might have that  
19 reduced caseload because of some other function which  
20 he has been called upon for them to perform?

21 A. Yes.

22 Q. But as to any individual in particular, you don't  
23 know?

24 A. Right.

25 Q. I believe you testified, and again, I want it



1 from the best of your information; that there are  
2 some Vincentians who reside within Meade Hall and some  
3 who reside in various dormitories on the campus.

4 A. Yes.

5 Q. What about Father Lachowski, a Vincentian of  
6 other than this Province; do you know if he resides  
7 within the confines of the campus, from your own  
8 information?

9 A. I think he resides in Meade Hall.

10 Q. What about any or all of the religious sisters?

11 A. None reside there.

12 Q. None reside on campus?

13 A. No.

14 Q. Do you know any of the lay faculty who reside  
15 within the campus?

16 A. No.

17 Q. Do you know as to whether there is any requirement  
18 that any particular religious individual be placed  
19 on the Board of Trustees by virtue of any office they  
20 would hold? In other words, we have got a requirement  
21 of one-third of the Board of Trustees being Order  
22 personnel or religious Order personnel. Is there any  
23 particular requirement of the Provincial beyond that;  
24 do you know?

25 A. I am not positive. It may be. I am not sure.



1 MR. RANDAZZO: It is not more than one-third.

2 MR. SCHMIT: And it is not religious, it is  
3 Vincentian.

4 HEARING OFFICER: Is that on the exhibit?

5 MR. RANDAZZO: I think it is in the Joint 2.

6 HEARING OFFICER: Mr. Randazzo, you are referring  
7 to Joint Exhibit 2?

8 MR. SCHMIT: Two.

9 HEARING OFFICER: Which specifies not more than  
10 one-third being religious. Okay.

11 MR. SCHMIT: Specifically on page three, section  
12 B, I think, paragraphs two and three, it states as  
13 Mr. Randazzo said, "Of whom not more than one-third  
14 shall be priests of the Congregation of the Mission."

15 Q. (By the Hearing Officer) One brief question.  
16 Are there any departments or colleges or divisions  
17 of the university in which the faculty composition  
18 is solely religious as opposed to lay?

19 A. Oh, no.

20 Q. Okay. I believe you had already testified that  
21 there are no Vincentians who are on the teaching  
22 faculty within the College of Nursing and you --

23 A. No.

24 Q. And you mentioned another college.

25 A. There is none in Science, Science Department,



1 as far as I know.

2 Q Does this hold true as far as the other religious  
3 personnel who are not members of the Vincentian Order;  
4 they are Arts and Sciences?

5 A Other religious, there is some in nursing, there  
6 is one in nursing there.

7 Q Which one is that?

8 A Balthasar.

9 Q And the four individuals all teach a full load?

10 A They are full time.

11 Q Twelve hours or --

12 A Right.

13 HEARING OFFICER: I have no further questions,  
14 Mr. Randazzo.

15 MR. RANDAZZO: I have nothing else.

16 HEARING OFFICER: Mr. Schmit?

17 MR. SCHMIT: No sir.

18 HEARING OFFICER: You may step down, sir.

19 (Witness excused.)

20 HEARING OFFICER: We'll take a short recess for  
21 lunch.

22 (Whereupon at 12:45 p.m., a brief recess was  
23 taken for lunch.)

24

25



AFTERNOON SESSION

(1:15 p.m.)

HEARING OFFICER DONNER: Back on the record.

Mr. Randazzo, do you have someone else here to testify on behalf of the employer?

MR. RANDAZZO: I will put Father Tierney on the stand at this time.

Whereupon,

BERNARD E. TIERNEY

was called as a witness by and on behalf of the Employer and, having been first duly sworn, was examined and testified as follows:

HEARING OFFICER: Would you please state your full name for the record.

THE WITNESS: Bernard E. Tierney.

DIRECT EXAMINATION

Q. (By Mr. Randazzo) Father Tierney, what is your position with the university?

A. Vice President for Business Affairs.

Q. How long have you held that position?

A. Since February, 1967.

Q. Can you give us a general idea of the duties and responsibilities that are concerned with your job?

A. Well, I have responsibility for the accounting function, the finance function. In general, I sign



1 contracts. I have custody of the assets of the  
2 corporation and I have several functions reporting  
3 to me.

4 Q. And you report directly to the president?

5 A. To the president.

6 Q. I direct your attention to the vow of obedience,  
7 and I take it that the Vincentian Fathers at the  
8 university are subject to such a vow?

9 A. Yes.

10 Q. To whom is this vowed?

11 A. Can I have a legal explanation first?

12 Q. Yes.

13 A. Our vows are private and simple. This is Canon  
14 Law, now. That is opposed to solemn and public.  
15 Our vows are made, in effect, to no one. That is,  
16 they are taken in the presence of God. They are  
17 listened to by, you might say, an officer of the  
18 community. The nature of our vows is such that we  
19 are not considered religious. I'm not entering into  
20 the testimony here. You can call us religious, but  
21 canonically we are not religious. We are secular  
22 priests, living in the community. We are governed  
23 by the way, by a Superior General.

24 Q. Now, would that be, is that Provincial that has  
25 been referred to?



1 A. No, the Provincial is the superior of a Province.  
2 The Superior General is over the entire worldwide  
3 community.

4 HEARING OFFICER: Which is made up of the provinces?

5 THE WITNESS: Yes.

6 Q. (By Mr. Randazzo) Now, you are aware of the fact  
7 that the Vincentian Fathers are engaged on the faculty  
8 of Niagara University?

9 A. Yes.

10 Q. Can you describe the relationship of the vow  
11 of obedience to the employment relationship that they  
12 have at the university?

13 A. Could I specify in regard to myself, first?

14 Q. Yes.

15 A. And broaden it anyway you or Mr. Schmit want.

16 Q. Yes, fine. In your own words.

17 A. Well, the broadest description that I can give,  
18 that my vow of obedience, that has no relationship  
19 whatsoever to my position. In effect, I am a member  
20 of two corporations. I am a member of the corporation  
21 of the community in which I have certain obligations.  
22 Those obligations are personal and religious. In  
23 relation to the corporation of the community, I am  
24 corporately responsible to the corporation within the  
25 chain of command above me to the president, and



1 ultimately to the Board of Trustees.

2 MR. SCHMIT: Excuse me. I don't mean to interrupt.  
3 I think you're differentiating between the two  
4 corporations. You mentioned two corporations of the  
5 community. I think you have misspoken.

6 THE WITNESS: The corporation of the community of  
7 which I am a member and the corporation of the  
8 university of which I am an officer, and the two are  
9 not only separable, but separated. They are two  
10 entirely different responsibilities.

11 Q. (By Mr. Randazzo) Now, could you describe the  
12 circumstances under which a Vincentian Father would  
13 come to be employed at the university?

14 A. Well, it could arrive in several ways. For  
15 example, I'll personalize it again, and this would  
16 apply to the whole community. I could initiate a  
17 request, for example, which I could say I would like to  
18 teach at St. Thomas Moore High or St. John's Univer-  
19 sity, or I would like to be in administration or I  
20 would like to be in a parish or whatever the nature  
21 of the work would be. This would be directed to the  
22 Provincial Superior, who would be a matter of consul-  
23 tation, that will be initiation on my part. It might  
24 be initiated by a third party, third to the Provincial  
25 Superior or myself, for example the president of



1 St. John's University or someone there in administra-  
2 tion might say to the Provincial, "I would like to  
3 have Tierney down at St. John's.". In that case, the  
4 Provincial would call me in and say "I have this  
5 request. How do you feel about it?" I could say yes  
6 or no, or the Provincial himself, for his own reasons,  
7 external or internal to himself, could say to me "I  
8 would like you to go to Niagara University. How do  
9 you feel about it?". I could say yes or no. So it  
10 is rather a consultative process. Now, canonically,  
11 under my vow of obedience, I could be put directly  
12 under obedience.

13 MR. SCHMIT: Under what? Excuse me.

14 THE WITNESS: Under obedience, under my vow of  
15 obedience, and in that case the refusal would be  
16 related to the community, not to any other corporation.  
17 But, that is extremely rare. I have been thirty-five --  
18 well, longer than that, since 1939 in the community  
19 and I can't think of a single instance where a man  
20 has been put under obedience. But canonically, we  
21 could be.

22 HEARING OFFICER: By "put under obedience", if  
23 your Provincial met with you and said "I'd like you to  
24 go to St. John's University" and you said "I'd rather  
25 not", conceivably he could say "You are going to go



1 there anyway."

2 THE WITNESS: Yes, he could. That, as I say, I  
3 am giving you a technical explanation, which has never  
4 in my experience, ever been done.

5 HEARING OFFICER: Thank you.

6 Q. (By Mr. Randazzo) Now, what relationship would  
7 Father Lachowski have with the Province that is con-  
8 cerned with Niagara University, if any?

9 A. He has no relationship, I mean through the  
10 Eastern Province. We are in the Eastern Province.  
11 He is in the New England Province.

12 Q. Right.

13 A. None.

14 Q. And as far as the three nuns, would they be at  
15 all concerned with any vow of obedience as it pertains  
16 to the Vincentian Order?

17 A. No.

18 Q. Now, could you describe the vow of poverty and  
19 how it relates to the payment of the religious and  
20 how the funds are handled with respect to that?

21 A. If I can distinguish. I am not sure it is  
22 related to the payment of salary. But, I will accept  
23 the question as it is. In my vow of poverty as  
24 distinguished from a solemn vow, I have the right of  
25 title, ownership, if you wish. I do not have the



1 right of use. For example, if I were to be willed,  
2 say my father had died and willed me a million dollars,  
3 Lord forbid, but I could keep that million dollars,  
4 but I cannot use it except by permission. I cannot  
5 spend it. Now, in the case of salaries or earnings  
6 from any other source, say an Army chaplain or whatever  
7 it might be, that is not my money; it is a corporate  
8 income and therefore it is given to the Province. I  
9 have no title to that money, and the use of it is  
10 corporately decided by the Province.

11 Q. Now, can you describe the method under which the  
12 Vincentian Fathers on one hand, and the other religious  
13 and also the lay faculty are compensated for their  
14 services at the university?

15 A. Yes. Well, as I see it, there is one, I think,  
16 significant difference between lay faculty and  
17 Vincentian religious. Let me put it more broadly.  
18 Between lay faculty and religious other than Vincen-  
19 tian, and Vincentian faculty, and that is in the  
20 case of the other religious and the lay faculty there  
21 is an individual contract, written contract. In the  
22 case of the Vincentian religious there is none. I  
23 don't know whether that answers your question.

24 Q. Now, are you at all involved in the disbursements  
25 of paychecks or salary checks?



1 A. Yes.

2 Q. To the instructional staff?

3 A. Yes.

4 Q. Can you describe the nature of the issuance  
5 of these checks to the three groups, the Vincentians,  
6 the religious non-Vincentians and the lay?

7 A. In the case of the lay faculty and the other  
8 religious, they are paid on either a ten or twelve  
9 month basis according to their contractual scale.

10 HEARING OFFICER: Excuse me. Does that include  
11 Father Lachowski?

12 THE WITNESS: Father Lachowski, yes.

13 HEARING OFFICER: Father Lachowski, when you say  
14 other religious, you are including him as well as the  
15 other three nuns?

16 THE WITNESS: Yes.

17 MR. SCHMIT: Would they be consistent in that  
18 regard, Father Tierney?

19 THE WITNESS: Throughout.

20 Q. (By Mr. Randazzo) That is what I mean, in that  
21 regard, yes.

22 A. Yes. In the case of Vincentian religious, the  
23 payment is made in a monthly sum equal to, I believe  
24 it is one-tenth of the total salaries earned by the  
25 Vincentian group employed by the university, and that



1 is paid to the corporation or the Province.

2 Q And what about the non-Vincentian religious and  
3 the lay?

4 A In terms of the method of payment, there is no  
5 difference.

6 Q Between the two?

7 A No.

8 Q But, there is a difference between those two and  
9 the Vincentian?

10 A Yes.

11 Q Would the Vincentian and non-Vincentian religious  
12 and lay all be on the same payroll?

13 A Yes.

14 Q Would they all be, would there be any difference  
15 in terms of assignment of rates of pay or a salary  
16 scale?

17 A No.

18 Q Now, Father, would you comment on the vow of  
19 poverty as it pertains to a personal commitment and  
20 discuss how it fits into the employment situation at  
21 the university?

22 A The vow of poverty as related to employment?

23 Q As an individual, personal commitment?

24 A Well, I have to put that broadly, if you don't  
25 mind.



1 Q. If you would?

2 A. My personal commitment is to use whatever talents  
3 I have, both spiritual and intellectual and physical  
4 in the way that corporately is decided would be best,  
5 and having accepted that or having been appointed to  
6 it and accepted it, that is, then that is my personal  
7 commitment, and it is related to the fact that I do  
8 this as a religious under vow, that is my vows. I  
9 don't know whether I'm getting too technical, but my  
10 vows, in my opinion, enhance that relationship.

11 Q. There has been testimony about the real estate  
12 of the university.

13 A. The real property?

14 Q. Title to the property?

15 A. The real property of the university?

16 Q. Yes.

17 A. Yes.

18 Q. Do you have any knowledge of the ownership of  
19 the property and how that --

20 A. Yes, all the property of the university is held  
21 in title by the university corporation. That is  
22 without exception, that statement.

23 Q. Now, are you familiar with the American Association  
24 of University Professors?

25 A. AAUP?



1 Q. AAUP.

2 A. Yes.

3 Q. Do you know whether or not lay faculty comprise  
4 the membership, are concerned with membership in that  
5 organization?

6 MR. SCHMIT: Can I object to this line of ques-  
7 tioning? I fail entirely to see the relevance and I  
8 don't think it will be determinative of anything, in  
9 any event. We are not here as a representative of  
10 that association.

11 MR. RANDAZZO: I just have the one question.

12 HEARING OFFICER: I will overrule your objection.

13 Q. (By Mr. Randazzo) Father, do you know whether  
14 or not any religious faculty are members of that  
15 association?

16 A. Well, I know they are free to belong to it.

17 Q. Have you ever been a member?

18 A. Yes. Up until the time I could no longer hold  
19 it, which was when I became part of the administration.  
20 I'm not positive of this, now, but I believe there  
21 are two Vincentians at the university who are members  
22 of the AAUP, but that is not positive knowledge.

23 MR. RANDAZZO: That is all I have.

24 HEARING OFFICER: Mr. Schmit?

25



## CROSS EXAMINATION

1  
2 Q. (By Mr. Schmit) Is the written contract signed  
3 by the lay faculty and the religious non- Vincentians,  
4 the same contract?

5 A. So far as I know, yes.

6 HEARING OFFICER: Same form which is used?

7 THE WITNESS: Yes.

8 Q. (By Mr. Schmit) Do you know that?

9 A. Yes, I do.

10 Q. How often are lay faculty paid?

11 A. Either on a ten or twelve month basis.

12 Q. How often do they receive their paychecks?

13 A. Ten or twelve times a year.

14 Q. I see. So, it would be, they are paid monthly;  
15 is that correct?

16 A. If they -- they designate, we have either a ten  
17 month payment or a twelve month, so it is either one-  
18 tenth or one-twelfth of the contracted.

19 Q. Depending on the category, they would receive  
20 that on a monthly basis?

21 A. No sir.

22 Q. How often do they receive it?

23 A. It is up to the faculty member.

24 Q. Let's take the ten month faculty member first.

25 A. Yes.



1 Q. If someone opts to be paid on a ten month basis?

2 A. Yes.

3 Q. How often does he receive increments of one-  
4 tenth each?

5 A. In the first ten months of the contract.

6 Q. So, he gets paid one-tenth each month?

7 A. That's right.

8 Q. And in connection --

9 A. Excuse me. Not each month. There are twelve  
10 months of the year.

11 HEARING OFFICER: Each of the first ten months  
12 of the contract?

13 THE WITNESS: That's right.

14 Q. (By Mr. Schmit) So he gets paid the appropriate  
15 percentage on a monthly basis?

16 Yes.

17 Q. That is also true of the twelve month faculty  
18 members; is that correct?

19 A. That's correct.

20 Q. Now, with respect to the religious faculty, non-  
21 Vincentian, are they paid the same way?

22 A. Yes.

23 Q. Do you know whether their paychecks are given to  
24 them?

25 A. They are given to them.



1 Q. Do you know what they then do with them?

2 A. I do not.

3 MR. RANDAZZO: Objection. I am going to object  
4 to that, and if there is going to be a ruling, that  
5 what a religious does with their salary, then I am  
6 assuming that it will be equally relevant in terms  
7 of what the lay faculty do with their salary. Then,  
8 perhaps we are going to have rebuttal.

9 MR. SCHMIT: I disagree with that, and I want  
10 to say on the record why. I think it is perfectly  
11 relevant, with these kinds of issues, for the Hearing  
12 Officer to determine whether the religious, non-  
13 Vincentian faculty retain their pay for their own  
14 use and they in turn sign these checks to their order,  
15 or make some other disposition to the order; I think  
16 that is relevant.

17 HEARING OFFICER: I think the Board has held  
18 that it is relevant inquiry in some other cases, so I  
19 will overrule your objection.

20 Q. (By Mr. Schmit) Father Tierney, do you know  
21 whether religious, non-faculty members --

22 A. Excuse me; religious --

23 Q. I am sorry. Do you know whether religious non-  
24 Vincentian faculty members assign or otherwise contri-  
25 bute their paychecks to their orders?



1 A. I do not know.

2 Q. You do not know that one way or the other?

3 A. No.

4 Q. Regarding the Vincentian faculty members, you  
5 have testified that their checks are paid to the  
6 corporation of the community; is that correct?

7 A. That's correct.

8 Q. Are those checks remitted on a monthly basis?

9 A. Yes.

10 Q. Are they remitted in individual names or  
11 accounts or in a single check for the Vincentian  
12 faculty?

13 A. A single check, accompanied by a list of the  
14 salaries.

15 Q. So each month there would be a single check going  
16 to the community?

17 A. That's correct.

18 Q. And that would represent the salary of the  
19 Vincentian faculty members?

20 A. That's correct.

21 Q. Does the individual faculty member receive any  
22 portion of that money for his own use?

23 A. Well, it is pretty hard to separate dollars in a  
24 pot.

25 Q. That is exactly my point. Are a portion of them,



1 of the dollars separated and given specifically back  
2 to the faculty member?

3 A. I get forty dollars a month, if that is what  
4 you're asking.

5 Q. You get a living allowance of forty dollars?

6 A. No.

7 Q. Personal allowance?

8 A. You can call it personal, yes.

9 Q. What would you like to call it?

10 HEARING OFFICER: Your question, is it addressed  
11 in terms of faculty, specifically referring to?

12 MR. SCHMIT: I'm talking about Vincentian.

13 HEARING OFFICER: Vincentian.

14 Q. (By Mr. Schmit) I'm talking about Vincentian.

15 A. I can spend that money. In that sense it is  
16 personal.

17 Q. Do other members, do the members of the Vincentian  
18 teaching faculty also receive such an allowance?

19 A. Yes.

20 Q. In the amount of forty dollars per month?

21 A. Yes sir.

22 Q. You mentioned that the salary payment to the  
23 corporation of the community goes in to a single pot.

24 A. I don't know what is done with it.

25 Q. You don't know what is done with it?



1 A. No.

2 Q. Deposited in the community corporation general  
3 revenues?

4 A. I would assume so.

5 Q. And used for community purposes?

6 A. I would assume so.

7 Q. Do you know of any other purposes for which it  
8 would be used?

9 A. I don't know. I am not involved in the financial  
10 affairs of the Provincial corporation.

11 Q. Does the community then finance the, say the Meade  
12 Hall, the community residence of the Vincentian  
13 faculty?

14 A. Yes.

15 Q. Father, a previous witness at least indicated  
16 that you would have some knowledge in connection with  
17 fringe benefits; do you?

18 A. Yes, I do.

19 Q. There was at least some testimony with respect  
20 to a combination retirement and insurance plan. Could  
21 you give the correct title?

22 A. This is the TIAA cref; Teachers Insurance  
23 Annuity Association.

24 Q. What is the second acronym?

25 A. Cref, C-R-E-F.



1 Q Do you know what that stands for, Father Tierney?

2 HEARING OFFICER: Of your own information?

3 THE WITNESS: Equity fund is the E and the F.

4 Q (By Mr. Schmit) I don't know it.

5 A You can avoid cref all together. You could be  
6 in the TIAA, and that is an annuity. What cref adds  
7 to the TIAA is a variable annuity. That is whatever  
8 portion you assign is invested in equities which are  
9 variable. But, the TIAA is a fixed annuity.

10 Q As to the cref part, would that be an alternate  
11 means of funding or an alternate means --

12 A Alternate to the individual.

13 Q Up to the individual?

14 A Yes.

15 Q Now, the annuity that is purchased has both a  
16 life benefit, I take it, and a retirement benefit;  
17 is that the concept?

18 A Yes.

19 Q How is it purchased; by whom is it purchased or  
20 paid for?

21 A Well, there is an eligibility of one year of  
22 service and thirty years of age.

23 Q For participation?

24 A That's right.

25 Q Continue, if you have something more on that?



1 A. Yes, the individual may or may not participate.  
2 If he opts to participate, the university pays five  
3 percent and that is matched by five percent from the  
4 individual. The policy also, or the pension also  
5 includes a related life insurance.

6 Q. Coverage feature?

7 A. And that is a decelerating.

8 Q. Decreasing term?

9 A. Decreasing term.

10 Q. Do Vincentian faculty members participate in this  
11 plan?

12 A. Yes, they do.

13 Q. With respect to the funding of their participation;  
14 how is that done?

15 A. (No response)

16 Q. You mentioned with respect to it, you mentioned  
17 just generally, and you haven't attributed to anyone  
18 yet; five percent by the university and five percent  
19 by the participant?

20 A. Right.

21 Q. With respect to a member of the Vincentian  
22 faculty, how is it funded?

23 A. That is paid in total. Again, five percent of  
24 the salaries, whatever they are, by the Provincial  
25 corporation to the university corporation.



1 Q. And with respect to the non-Vincentian or lay  
2 faculty; that would be a deduction from his paycheck?

3 A. That's right.

4 Q. How about with respect to the non-Vincentian  
5 religious faculty?

6 A. The same as lay faculty.

7 Q. The same, a deduction, payroll deduction?

8 A. Payroll deduction.

9 Q. Do all the Vincentian faculty members participate  
10 in the program, if you know?

11 A. If they qualify.

12 Q. If they qualify?

13 A. Yes. I believe we had one man that didn't  
14 qualify. He was not of age, but I think he has come  
15 of age.

16 Q. There was some testimony with respect to medical  
17 insurance programs. Could you tell me what they are,  
18 Father?

19 A. Yes. Excuse me. We have a basic Blue Cross-  
20 Blue Shield, 46-47, supplemented by a major medical  
21 policy through Phoenix Mutual Life.

22 Q. Father, are Vincentians covered by the program,  
23 as well?

24 A. Yes.

25 Q. Are they in the same group as the non-Vincentians?



- 1 A. The entire university personnel.
- 2 Q. Is in a single group?
- 3 A. Yes.
- 4 Q. That would include the Vincentians?
- 5 A. Yes.
- 6 Q. How is this funded?
- 7 A. By the university.
- 8 Q. Is there also an additional Blue Cross-Blue
- 9 Shield 50-51 for lay faculty?
- 10 A. Yes, there is.
- 11 Q. No Vincentians participate in that plan; is that
- 12 correct?
- 13 A. That's correct.
- 14 Q. There was, I believe, some testimony relating
- 15 to a salary continuation plan?
- 16 A. Yes sir.
- 17 Q. Is that a disability insurance program?
- 18 A. It is broader than that.
- 19 Q. What is that coverage?
- 20 A. Well, the university is self insured for the first
- 21 three months, any disability.
- 22 Q. That would be --
- 23 A. Job related or not.
- 24 Q. What about salary continuation?
- 25 A. That's right; full salary is paid to the indi-



1 vidual, disabled or ill individual. At the end of  
2 three months, they are insured. It is the Aetna Life  
3 Insurance.

4 Q. The Aetna Insurance Company?

5 A. Yes, that's right. And half salary is paid for  
6 life or the length of disability or to age 65, which-  
7 ever of the three occurs first.

8 Q. Now, are members of the Vincentian community  
9 covered by that program?

10 A. Yes.

11 Q. In the event of disability of a Vincentian  
12 faculty member, where is the salary continuation made  
13 or to whom is it made?

14 A. In the same way as any other salary payment made;  
15 it would go to the corporation of the Province.

16 Q. An individual would not have any title in that?

17 A. You mean, according to our vow?

18 Q. Yes sir?

19 A. That's right.

20 Q. You testified earlier that a member of the  
21 community would not have any title in any salary or  
22 earnings, did you not?

23 A. That's right, I did, and this is handled the same,  
24 by the way.

25 Q. Yes, it was. Father Tierney, is it fair to say



1 that as a member of the Vincentian community,  
2 Vincentian faculty members are supported by the  
3 community corporation or corporation of the community?

4 A. Oh, yes.

5 Q. The corporation of the community meets their needs?

6 A. Yes.

7 Q. By way of food, clothing, shelter?

8 A. That's correct, yes.

9 Q. In fact all of their living expenses are paid  
10 by the community corporation; is that correct?

11 A. With some limitations.

12 Q. What would be an example of the limitations?

13 A. Well, I might think that I should have ice cream  
14 eight times a week and the corporation may say no.

15 Q. You may have to buy some of those cones?

16 A. Yes.

17 Q. You distinguished between private and simple vows  
18 taken by Vincentians as opposed to solemn and open  
19 vows?

20 A. Public.

21 Q. Public. I'm sorry. Solemn and public vows?

22 A. Yes.

23 Q. Is a private and simple vow taken by a member  
24 of the Vincentian Order any less binding and meaningful  
25 than a solemn and public vow?



1 A. It certainly has no less meaning. It does have --

2 Q. It is not any less sincere, is it, Father Tierney?  
3 It certainly is not any less sincere?

4 A. No, nothing to do with sincerity or dedication.

5 Q. Not any less binding or less real, is it?

6 A. Well, canonically, there is a difference. There  
7 is a difference.

8 Q. Is there a practical difference, Father?

9 A. Yes, a difference in the vow.

10 Q. Is it with respect to the legal and separate?

11 A. Yes.

12 Q. With respect to the conduct of your life as a  
13 Vincentian, is there any real difference, in substance?

14 A. I can own property that a Franciscan or Jesuit  
15 cannot.

16 Q. But, you can't use it?

17 A. I can't use it.

18 Q. Is your vow of obedience any less of a vow of  
19 obedience because it is private and simple?

20 A. No.

21 Q. Theirs is an equal meaningful vow?

22 A. The solemn vows, for example, the Jesuits, at  
23 least some of them, have a special vow directly to  
24 the Holy Pontiff, the Pope.

25 Q. Who is your vow made to?



1 A. It is not made to anybody. Made to God.

2 Q. To whom or what does it have application to?

3 A. I vow in four vows, actually. I vow poverty,  
4 chastity, obedience and stability, and my vow of  
5 stability binds me to the community. I place myself --

6 Q. What do you mean by bound to the community?

7 A. I am bound by vow.

8 Q. To the community?

9 A. That's right.

10 Q. Something that you share in common with other  
11 members of the community?

12 A. Yes.

13 Q. Does it connote some special allegiance to other  
14 members of the community, the vow of stability?

15 A. Well, connotes the fact that I hope, intelligently,  
16 vow to associate myself with the members of that  
17 community at any given time, the community as exists,  
18 as I understand.

19 Q. With respect to the vow of obedience, what does  
20 it relate to or have application to?

21 A. It has relation, essentially to my membership in  
22 the community.

23 Q. Specifically, what does that mean?

24 A. Well, it means that I accepted a rule. In  
25 accepting -- in pronouncing my vows.



1 Q. A rule of community?

2 A. That's right. I'll live my life in grace, if  
3 you want, under the rule established by the St. Vincent  
4 de Paul and amended subsequently over three hundred  
5 or more years.

6 Q. Is part of that rule to obey your superiors in  
7 the community?

8 A. Sure.

9 Q. And on the immediate level, that would be  
10 Father O'Keefe, Superior of the community at Niagara  
11 University?

12 A. That's right, yes.

13 Q. Would that also include obeying the Provincial  
14 of the Eastern Province of the order?

15 A. Yes.

16 Q. And in turn, the Superior General of the Order?

17 A. Yes.

18 Q. And would not, would you not or would not a  
19 member of the Vincentian faculty have to obey those  
20 individuals in connection with his assignment?

21 A. Pardon me? In connection with what assignment?  
22 You mean in going somewhere?

23 Q. That's right.

24 A. Not necessarily. You see, when you're talking  
25 about a vow of obedience, that is a formal process.



1 Q. Yes.

2 A. Beyond that it is a matter of personal commitment.  
3 In other words, canonically, I am not disobedient,  
4 to use the negative term, unless I am formally told,  
5 I am saying this under the vow of obedience.

6 Q. Does the vow of obedience require you to comply  
7 with the directive of your Superior in the community  
8 with respect to work assignments or job assignments,  
9 assignments to parish or university or what have you?

10 A. Well, as I tried to explain in the beginning,  
11 excepting in blanket terms, my assignment is a matter  
12 of obedience, obviously.

13 Q. But let's say --

14 A. I'm not --

15 HEARING OFFICER: Go ahead, sir.

16 THE WITNESS: I am not put under the vow. It  
17 just doesn't work that way. We are a group, we hope,  
18 of intelligent men, sharing a conviction as to a way  
19 of life, values and so forth.

20 Q. (By Mr. Schmit) You certainly could be put under  
21 a vow, could you not, Father Tierney?

22 A. Absolutely.

23 Q. You could be directed to report to such and such  
24 a place for such and such an assignment?

25 A. Yes.



1 MR. RANDAZZO: The witness has already answered  
2 that.

3 Q. (By Mr. Schmit) You would have to comply to --

4 HEARING OFFICER: There is testimony on the record  
5 on that.

6 Q. (By Mr. Schmit) -- such a direction as a member  
7 of the Vincentian faculty, to go to Niagara to teach --  
8 I mean Vincentian community, to go to Niagara and  
9 teach?

10 A. That's correct.

11 Q. He would have, in the final analysis, he would  
12 be required to comply with a directive, would he not,  
13 if he were put under the vow?

14 A. Yes, sure.

15 Q. Now, if he were put under the vow and if he were  
16 directed to go to Niagara University and teach, and  
17 if he for some reason refused to teach, wouldn't it be  
18 inconsistent to the vow?

19 A. Sure.

20 Q. Wouldn't the refusal to teach, for example, a  
21 strike or work stoppage --

22 MR. RANDAZZO: I am going to object to this.

23 THE WITNESS: There is certainly no work going  
24 on --

25 HEARING OFFICER: Yes.



1 MR. SCHMIT: What is his objection to that?

2 MR. RANDAZZO: It is not relevant.

3 MR. SCHMIT: It is perfectly relevant, whether  
4 or not these people, you know, along with other  
5 employees of the community, can strike, engage in  
6 stoppage; I think it is inconsistent with the vows,  
7 and I think it is --

8 THE WITNESS: You say, "consistent"?

9 MR. SCHMIT: Let's have a ruling on it.

10 MR. RANDAZZO: I believe the witness has testified  
11 to the vow in great detail.

12 MR. SCHMIT: The witness has not testified at all  
13 to its application.

14 HEARING OFFICER: I think in fact he has.

15 MR. RANDAZZO: It may very well be something he  
16 will want to argue in a memorandum, but I think the  
17 witness has answered all the questions relevant to  
18 the vow.

19 HEARING OFFICER: I am going to sustain the  
20 objection. I think the witness has clearly testified,  
21 although it hasn't happened or may not have happened,  
22 because of the vow of obedience, he could be directed  
23 to do something by his superiors.

24 MR. SCHMIT: I except to the ruling to the  
25 objection.



1 HEARING OFFICER: You have an automatic exception.

2 MR. SCHMIT: That's all I have.

3 HEARING OFFICER: Mr. Randazzo?

4 REDIRECT EXAMINATION

5 Q. (By Mr. Randazzo) Father, with respect to the  
6 50-51 medical, who pays for that; is there any  
7 personal payment involved with that or is that fully  
8 funded?

9 A. First of all, it is a private group.

10 Q. Okay.

11 A. I have very little -- I have hearsay knowledge  
12 about the nature of the group.

13 Q. Okay.

14 A. I can't testify as to composition.

15 Q. Is it available to everyone, do you know?

16 A. Negatively, I know it is not available to  
17 everyone, because I have had certain people come in  
18 to me and complain, and I explained to them that this  
19 is a private action by a group of faculty and they  
20 have formed their own --

21 Q. Group.

22 A. They came to me and asked about it and I said  
23 "Fine, if you want to form the group, that would be  
24 fine.".

25 MR. RANDAZZO: That's all I have.



1 MR. SCHMIT: I have a couple more that I would  
2 like to ask.

3 RECROSS EXAMINATION

4 Q. (By Mr. Schmit) Father Lachowski is a member  
5 of what Province?

6 A. New England.

7 Q. New England Province?

8 A. Yes.

9 Q. And he has taken vows similar to those which you  
10 described?

11 A. Precisely.

12 Q. Precisely the same?

13 A. Yes.

14 Q. Sister Jean Frances Gilman is a member of the  
15 Daughters of Charity; is that correct?

16 A. That's correct.

17 Q. Are you familiar with that order of nuns, Father  
18 Tierney?

19 A. Yes.

20 Q. Is there a relation between that order and the  
21 order of Vincentian priests?

22 A. Yes.

23 Q. What is the relation?

24 A. Both communities were founded by St. Vincent de  
25 Paul. In the case of the Daughters of Charity,



1 co-founded with Louis Demara. They have their own  
2 structure of, their own separate rule.

3 Q. They have what?

4 A. Their own separate rule.

5 Q. Rule of Order?

6 A. No, their rule is not the same as the Vincentian  
7 community.

8 HEARING OFFICER: Is that what you mean by "rule"?

9 Q. (By Mr. Schmit) Rule of what?

10 A. I'm sorry. The, well, the rule. Constitution  
11 if you want to use a bad term, but comparable term.  
12 They take a different type of vow from us.

13 Q. What sort of vows would they take?

14 A. They take simple, private vows.

15 Q. Specifically which simple private vows?

16 A. I am not certain. I know it is poverty, chastity  
17 and obedience. I am not certain there is a fourth  
18 vow, but they take the vow on a year to year basis.

19 Q. Do they have a distinct and separate heirarchy?

20 A. Yes, they are under our Superior General.

21 Q. They are under the Superior General of the  
22 Vincentian Order?

23 A. Yes.

24 Q. The other two sisters mentioned were Sisters Mary  
25 Balthasar and Sister Mary Minella; is that correct?



1 A. Balthasar, Gilman and Minella.

2 Q. Are Sisters Balthasar and Minella members of the  
3 Daughters of Charity?

4 A. I'm sorry to say, I don't even know them, and  
5 maybe a little ashamed. If they walked in this room  
6 right now, I wouldn't know who they were.

7 HEARING OFFICER: Off the record.

8 (Discussion off the record.)

9 HEARING OFFICER: Back on the record. Referring  
10 to Joint Exhibit 1, does that help as to knowing which  
11 order the particular individual sisters Balthasar and  
12 Minella are of?

13 THE WITNESS: Sister Balthasar would be the Order  
14 of St. Francis and Sister Minella, I would think would  
15 be Our Lady of the Virgin Mary. I am guessing there.  
16 I don't know.

17 Q. (By Mr. Schmit) Are there initials or letters  
18 after Sister Minella's name in the directory?

19 A. Yes, OLVM.

20 Q. You don't know what that order is?

21 A. I could guess. That is all I could do.

22 Q. What would you guess?

23 MR. RANDAZZO: Objection.

24 HEARING OFFICER: Sustained.

25 THE WITNESS: I think the last would be Virgin Mary.



1 Q. (By Mr. Schmit) Sister Balthasar is a Sister of  
2 the Order of St. Francis?

3 A. Apparently.

4 Q. Are you familiar with that order?

5 A. No.

6 Q. Do you know as a general rule?

7 A. I know something.

8 Q. Do you know whether, as a general rule, nuns  
9 that are members of orders, take vows?

10 A. Yes, usually. In some cases, canonically, they  
11 might be promises.

12 Q. They would be similar to vows that we have  
13 previously described?

14 A. I wouldn't know.

15 Q. Are the non-Vincentian religious faculty members  
16 subject to reassignment by direction of their superiors?

17 A. I don't know.

18 Q. With respect to the Blue Cross-Blue Shield plan  
19 that you mentioned, the 46-47 plan with Phoenix major  
20 medical, that is the correct plan you testified to?

21 A. Phoenix Mutual Life.

22 Q. Who all is included in that, covered by it?

23 A. All the employees of the university.

24 Q. This would be faculty, non-faculty and any other  
25 employee of the university?



1 A. That's right.

2 Q. And are you familiar with the credit union?

3 A. Not really.

4 Q. Do you know whether the membership in it is  
5 available to all the employees of the university,  
6 whether faculty or not?

7 A. I would assume it is.

8 Q. Do you know whether any members of the Vincentian  
9 community are members of the credit union?

10 A. I don't know.

11 Q. There was some testimony regarding an on-campus  
12 or on-job banking facility?

13 A. Yes.

14 Q. Do you recall that, Father Tierney?

15 A. Yes, I do.

16 Q. What is that?

17 A. Well, we will make a payroll deduction upon  
18 application of the individual to deduct from their pay  
19 whatever amount they stipulate and we will send that  
20 to the bank. It is a convenience.

21 Q. To their bank?

22 A. To their bank.

23 Q. This then would be something that would not be  
24 available to members of the Vincentian community?

25 A. No.



1 Q Is it available to other, all employees of the  
2 university, whether faculty or not?

3 A Yes.

4 MR. SCHMIT: That's all I have.

5 REDIRECT EXAMINATION

6 Q (By Mr. Randazzo) That banking would be available  
7 to the religious who are non-Vincentians?

8 A Yes.

9 MR. RANDAZZO: That's all.

10 RECROSS EXAMINATION

11 Q (By Mr. Schmit) Do you happen to know whether  
12 any of those utilize it, Father?

13 A No, I'm sorry. That is done by the payroll clerk  
14 and while it is my responsibility, I don't get involved  
15 at the level of knowing each individual name. I can  
16 get that information for you.

17 MR. SCHMIT: Thank you.

18 EXAMINATION

19 Q (By the Hearing Officer) Father, I believe you  
20 testified that all the property of the university is  
21 owned by, in effect, the corporation?

22 A Yes.

23 Q The university corporation?

24 A That's right.

25 Q Does that include Meade Hall and the various things



1 within Meade Hall?

2 A. Yes.

3 Q. Does it -- what else is housed in Meade Hall, if  
4 anything, other than the residency for certain Vincentians?  
5

6 A. The telephone switchboard.

7 Q. For the university?

8 A. Yes.

9 Q. Anything else? Is there classrooms?

10 A. No, no.

11 Q. Meeting rooms or anything of that type?

12 A. No, no.

13 Q. Do you know as to whether the Vincentians pay  
14 any rental for use of the space or facility of Meade  
15 Hall, that they pay to the university?

16 A. They arrange their own food operation.. That is  
17 entirely separate from the university.

18 Q. They arrange that with an outside contractor of  
19 food services?

20 A. In fact, they do, but it is, that is their  
21 decision to make.

22 Q. Okay.

23 A. The university does not enter into that decision.

24 Q. What about for rental of living space; is there  
25 any monies paid to the university?



1 A. There is no rental as such paid, but there is  
2 payment for upkeep of the house. For example, the  
3 cleaning of the house.

4 Q. Performed by university employees?

5 A. Yes.

6 Q. Yes. Okay. As opposed to outside contractor?

7 A. That's right.

8 Q. Okay. And are there any Vincentians who are  
9 living, who reside in other buildings of the university,  
10 other than Meade Hall?

11 A. There are at least two. I believe there are only  
12 two.

13 Q. Do they just reside there, or is there any other  
14 function accrues as a result of their living there?

15 A. No, in both cases, they are what we call Resident  
16 Directors.

17 Q. Are either one of those two individuals full  
18 time faculty or among those people we are discussing  
19 today?

20 A. Both of them.

21 Q. Both of them are?

22 A. Yes.

23 MR. SCHMIT: Who are we referring to, Mr. Donner?

24 HEARING OFFICER: The two Vincentians who reside  
25 in Resident's Hall as Resident Dorm Directors or



1 Resident Director.

2 Q (By the Hearing Officer) Do either of those two  
3 individuals receive any additional monies from the  
4 university?

5 A Yes.

6 Q As a result of that function?

7 A Yes.

8 Q With respect to the, I believe five Vincentians  
9 who are still at issue, part time-full time issue;  
10 let's take for example, Father O'Keefe.

11 A Yes.

12 Q There has been testimony today that his teaching  
13 load is somewhat decreased because of another function  
14 he performed, namely as superior of the Vincentian  
15 house or Meade Hall; is that correct?

16 A I don't know. I could give you an assumption.  
17 I would think that that would be true.

18 Q Do you know whether he is a superior of Meade Hall?

19 A Oh, yes.

20 Q And you, are you in charge of issuing his pay-  
21 check or the monies which is paid to the community in  
22 his behalf?

23 A Yes.

24 Q As being full time faculty, you are in charge of  
25 that?



1 A. Yes.

2 Q. Does he receive any additional monies or in fact  
3 does he receive less money because of the fact he  
4 may be teaching less than full time course load or  
5 less than twelve hours a semester; does his pay increase  
6 or diminish? Does the community receive the same  
7 amount of pay they would receive in his behalf because  
8 of being slotted in that level?

9 A. I would say that his pay is equivalent to part  
10 time pay. In other words, he is being paid on an  
11 hourly, if you want, credit, or hour basis.

12 Q. As opposed to the other five individuals,  
13 Vincentians?

14 A. Right.

15 Q. So that, for example, Father Harrington, the  
16 Director of Student Activities, he may be teaching  
17 less than twelve hours a semester, but he is receiving  
18 the salary, the community is receiving in his behalf,  
19 the salary that he'd be entitled to as if he was full  
20 time faculty?

21 A. That's right.

22 HEARING OFFICER: Mr. Randazzo, any further  
23 questions?

24 MR. RANDAZZO: No.

25 HEARING OFFICER: Mr. Schmit?

CSA Reporting



1 MR. SCHMIT: No.

2 EXAMINATION

3 Q. (By the Hearing Officer) The three teaching  
4 nuns, three faculty members who are nuns?

5 A. Yes.

6 Q. Do any of them reside on the campus?

7 A. No.

8 Q. Do all of the 17 Vincentians who are members of  
9 your Province, do they all reside on campus, whether  
10 it be in dorms or Meade Hall?

11 A. Yes.

12 Q. Okay. The individual, the two individuals who  
13 reside in the dorms on the campus who are Resident  
14 Directors, is there any rental or payment of monies  
15 paid to the university for that space, living quarters  
16 by the community, in their behalf?

17 A. No.

18 Q. Do you know as to whether or not the university  
19 receives any monies from the community in the form  
20 of donated services of various faculty members?

21 A. Yes, they do.

22 Q. And on any frequent basis, annual or semester,  
23 how is that done?

24 A. Last count that I took, over approximately nine  
25 years, it was about a million, two hundred thousand.



1 Q. How does that work; explain what that means?

2 A. Well, the community uses, it has available to it--  
3 by the community, now, I am talking about the community  
4 on campus, Meade Hall as specified.

5 Q. Yes. Okay.

6 A. Receives the total salaries. They use those  
7 salaries to pay for the upkeep of all of the men in  
8 the house. They pay it to the Provincial corporation,  
9 I believe the figure now is \$40,000 a year for the  
10 men who have been assigned there, and then the net,  
11 more or less, but with some possible reserve is given,  
12 returned to the university as a gift.

13 Q. I see. Do other faculty members, lay faculty  
14 members give gifts to the university, also?

15 A. I have known some who did.

16 Q. You have known some who did?

17 A. Yes.

18 Q. And they are able to do so, can do so if they  
19 desire?

20 A. Oh, sure. Sure.

21 HEARING OFFICER: Anything else?

22 MR. RANDAZZO: I have nothing else.

23 MR. SCHMIT: No.

24 HEARING OFFICER: You are excused. Thank you.

25 THE WITNESS: Thank you.



(Witness excused.)

1  
2 HEARING OFFICER: Mr. Randazzo, do you have  
3 anyone else to testify at this time?

4 MR. RANDAZZO: No, that concludes our testimony.

5 HEARING OFFICER: Okay. Mr. Schmit, do you have  
6 anyone at this time you wish to call on behalf of  
7 the petitioner?

8 MR. SCHMIT: I do not.

9 HEARING OFFICER: Okay. At this point we'd like  
10 to ask the parties to briefly, for the record, sum up  
11 their positions on the appropriateness of the unit  
12 sought by the petitioner.

13 MR. RANDAZZO: I intend to summarize my position  
14 in post hearing brief and I would therefore, waive,  
15 at this time.

16 HEARING OFFICER: It has not changed from your  
17 initial position taken?

18 MR. RANDAZZO: Has not, no.

19 HEARING OFFICER: Mr. Schmit?

20 MR. SCHMIT: Could I have about two minutes?

21 HEARING OFFICER: Sure. Off the record.

22 (Discussion off the record.)

23 HEARING OFFICER: Back on the record. Mr. Schmit?

24 MR. SCHMIT: Like Mr. Randazzo, I am going to  
25 set forth my position on the appropriateness of the unit



1 in a post hearing brief. However, I would state that  
2 in the event that the unit petitioned for were found  
3 not to be appropriate, that the labor organization  
4 would represent the unit found to be appropriate by  
5 the National Labor Relations Board.

6 HEARING OFFICER: If the unit which is found to be  
7 appropriate is larger than that sought by the peti-  
8 tioner, you are stating at this time that you'd  
9 indicate a willingness to represent employees in that  
10 larger unit?

11 MR. SCHMIT: That's correct.

12 HEARING OFFICER: That would include a unit  
13 comprising religious faculty?

14 MR. SCHMIT: That's correct. You know the basis  
15 of my objection. It is inappropriate.

16 HEARING OFFICER: Would the parties waive the  
17 right to request review of the Regional Director's  
18 decision to the Board? Mr. Randazzo?

19 MR. RANDAZZO: No.

20 MR. SCHMIT: No.

21 HEARING OFFICER: Do any of the parties desire  
22 to file briefs? Mr. Randazzo?

23 MR. RANDAZZO: Yes.

24 HEARING OFFICER: Mr. Schmit?

25 MR. SCHMIT: Yes.



1 HEARING OFFICER: Briefs are due within seven  
2 days after the close of the hearing, so briefs would  
3 be due upon close of business, September 24th.

4 MR. RANDAZZO: I would ask the Hearing Officer to  
5 extend the time for the filing of briefs to two weeks.  
6 I would only point to the, notwithstanding the length  
7 of the transcript, but I think the complexity of the  
8 issues, and the fact that it is a decision that could  
9 very well be decided by the Board, and therefore I  
10 ask that the time be extended to two weeks, in any  
11 event.

12 MR. SCHMIT: For the reasons stated by Mr. Ran-  
13 dazzo, I join in that request, but I further ask that  
14 it be two weeks from receipt of transcript.

15 HEARING OFFICER: Okay. Off the record.

16 (Discussion off the record.)

17 HEARING OFFICER: Back on the record. I will  
18 give you an extension of time to file briefs until  
19 September 30th, Tuesday, September 30th, inasmuch as  
20 the transcript is really not all that long and there  
21 are one or two basic issues, which I believe the  
22 parties have fully litigated and the transcript re-  
23 flects that. Anything else the parties wish to present  
24 at this time?

25 MR. RANDAZZO: No, for the employer.



1 MR. SCHMIT: No.

2 HEARING OFFICER: If not, the hearing is closed.

3 (Whereupon the hearing in the above-entitled  
4 matter was concluded at 2:15 p.m.)

5  
6 \* \* \* \* \*